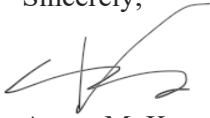


Please do not hesitate to reach out if you would like to speak with me about Cameron.
Thank you for considering his application.

Sincerely,

A handwritten signature in black ink, appearing to be 'AK', written over a horizontal line.

Aaron M. Katz

June 19, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing to recommend Cameron Campbell for a judicial clerkship position.

I had the pleasure of working with Cameron last summer. Cameron worked underneath me as a Summer Intern at Barach Law Group for the 2022 Summer. As soon as Cameron joined us, he hit the ground running. He always went the extra mile in completing his assignments and was always very thorough.

His writing is excellent, and Cameron has an exceptionally strong eye to detail. He has great communication skills, and we did not hesitate to expose him to our clients and opposing counsel.

With every assignment that I gave him I could trust that Cameron would return with a well-researched and well-written work product. We immediately felt comfortable with him drafting memorandums, motions, various complaints, and he especially came in handy on a busy afternoon when we needed an emergency motion swiftly but competently drafted. Cameron was not afraid to ask questions, but never failed to take initiative on his projects.

I am confident that Cameron will be a wonderful addition to your chambers. If I can be of any further assistance in your review of his application, please don't hesitate to contact me.

Very truly yours,

Francesca Blazina, Esq.

Francesca Blazina - fblazina@barachfamilylaw.com - (617) 819-1805

June 17, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing to recommend Cameron Campbell for a clerkship with you. I'm the Director of Advocacy Programs at Boston University School of Law. I supervise the Law School's competition programs and coach our competition teams. Therefore, I have worked closely with Cameron for two years in connection with moot court and mock trial and have watched him actively building on his strengths to excel in both areas.

During Cameron's first year of law school, despite having not yet taken Evidence or Trial Advocacy, he competed in the National Trial Competition, hosted by the Texas Young Lawyers Association. At the end of his 1L year, he was elected to the Mock Trial Executive Board as a Vice President of Training. Cameron was integral in encouraging interested first- and second-year law students to participate in mock trial. He volunteered to table at every student org fair, answering questions and supporting students who were nervous about trying something new.

In his second year of law school, Cameron competed in both mock trial and moot court competitions, all while also serving on the Mock Trial board and coaching mock trial teams. Cameron jumped right in during the fall semester by competing in the All-Star National Mock Trial Competition, which took place only weeks into the semester. At the same time, Cameron competed in our fall moot court competition, the Edward C. Stone Moot Court Competition. Cameron drafted an exceptional brief on the question of whether a charge can stand under the first paragraph of 18 U.S.C. § 2113(a) (the Bank Robbery Act) when the government does not allege that the defendant actually used force and violence during the commission of the attempted robbery. His brief was thoroughly researched, expertly structured, and clearly written. His brief score earned him a Best Brief award and an invitation to the Homer Albers Prize Competition, our honors moot court competition.

During the Albers competition, I had the pleasure of watching Cameron drastically improve his already strong oral advocacy skills. More than any of his fellow competitors, Cameron sought feedback. Not only did he sign up for every optional practice slot and attend office hours, he also reached out to each round's judges to request additional critical feedback so that he could further improve. He never became defensive, instead welcoming these critiques. Cameron understands that seeking out and incorporating feedback is integral to growing as an attorney. Cameron and his teammate ultimately advanced through three rounds of arguments to the fourth, semifinal round of the competition. Cameron's facility with the law during oral argument was exceptional. By the later rounds of competition, he was not using any notes, but was always thoughtfully, directly, and thoroughly addressed each judge's unique concerns. This was all the more impressive because Cameron was arguing a challenging and sensitive issue: whether the Second Amendment protects the right of undocumented persons to possess firearms. Unsurprisingly, Cameron's written work was again outstanding; his team received the award for Best Petitioner Brief in the competition.

Moreover, Cameron continued his involvement in mock trial while competing in Albers. First, while drafting his award-winning Albers brief, he coached a team at the National Trial Competition. Second, while competing in the Albers oral arguments, he was preparing to compete in the inaugural Crimson Cup Mock Trial Competition, which took place just two weeks after his Albers work ended. As Team Captain, Cameron was responsible for guiding his team to a successful fourth-place finish in the competition, while he was awarded Best Advocate in the competition. I believe Cameron's success in the Crimson Cup encapsulates his character: He is someone who can expertly coach and support first-year law students to success all while achieving success himself.

Finally, based both on Cameron's excellent research and writing skills and his ability to support and mentor other law students, I encouraged him to apply to be a student director of the Albers Competition during his 3L year. I am looking forward to working with him next year in that role. On a personal note, I enjoy working with Cameron. He is a top-notch legal analyst who truly enjoys the law. I believe that Cameron's particular strengths—his enthusiasm for the law, his facility with analysis, and his ability to clearly convey information—will make him an excellent law clerk. Therefore, I strongly recommend him for the position. Please contact me if you have any questions about his application.

Very truly yours,

Jennifer Taylor McCloskey, Esq.
Director, Advocacy Programs

Jennifer Taylor McCloskey - jataylor@bu.edu - (617)353-3199

Cameron M. Campbell

41 Mansfield Street, Apartment 2 • Boston, MA 02134

(603) 913-5538 • cameron3@bu.edu

Writing Sample

I prepared the attached writing sample for Boston University's 2023 Homer Albers Prize Moot Court Competition, for which my partner and I received an award for Best Brief. The matter at issue involved the search and subsequent arrest of Andrea Torres-Menjivar, an undocumented resident of the fictitious state of Albers, for carrying a firearm unlawfully in violation of 18 U.S.C. § 922(g)(5)(A). I argued in support of petitioner Torres-Menjivar's motion to dismiss on the grounds that the above statute was an unconstitutional violation of her Second Amendment right to keep and bear arms. The Supreme Court's decision in United States v. Rahimi was published after the Albers problem was released, and is therefore not included in the Second Amendment analysis below.

ARGUMENT

I. 18 U.S.C. § 922(g)(5)(A) IS AN UNCONSTITUTIONAL INFRINGEMENT ON TORRES-MENJIVAR’S FUNDAMENTAL RIGHTS BECAUSE THE PROTECTIONS OF THE SECOND AMENDMENT APPLY IN FULL FORCE EVEN TO NONCITIZENS.

This Court should reverse the lower court’s denial of Andrea Torres-Menjivar’s motion to dismiss. The statute under which Torres-Menjivar was charged and convicted makes it illegal for any noncitizen unlawfully present in the United States to “possess . . . any firearm or ammunition.” 18 U.S.C. § 922(g)(5)(A). However, this statute fails to pass constitutional muster when weighed against one of the rights most fundamental to this nation’s history and identity: the right to keep and bear arms codified by the Second Amendment. See McDonald v. City of Chicago, 561 U.S. 742, 767 (2010). Even noncitizens, including those present within the borders of the United States without formal authorization, are entitled to and shielded by the protections of the fundamental rights enshrined in the nation’s Constitution. See Plyler v. Doe, 457 U.S. 202, 215 (1982); Mathews v. Diaz, 426 U.S. 67, 77 (1976).

This umbra of Constitutional protections for noncitizens includes the Second Amendment right to keep and bear arms in self-defense, recognized by this Court as an individual right in 2008 and subsequently incorporated against the States. District of Columbia v. Heller, 554 U.S. 570, 628-29 (2008); McDonald, 561 U.S. at 767-68 (2010); see also United States v. Meza-Rodriguez, 798 F.3d 664 (7th Cir. 2015) (holding that unauthorized noncitizens nevertheless possess firearm rights under the Second Amendment). This interpretation is supported by both the plain language of the Constitution itself and the patterns of history, tradition, and jurisprudence surrounding the Second Amendment and its implementation.

Moreover, even if the language of the Second Amendment fails to cover unauthorized noncitizens in every possible circumstance, Torres-Menjivar herself has nevertheless developed

such extensive “substantial connections” to the nation, as set forth in United States v. Verdugo-Urquidez, that she merits the full protections of the Constitution. 494 U.S. 259, 265 (1990).

In addition, because Torres-Menjivar and her fellow noncitizens do possess a fundamental right to bear arms, the constitutionality of any statute attempting to restrict those rights falls into question. See Heller, 554 U.S. at 635. N.Y. State Rifle & Pistol Ass’n v. Bruen requires the Government to affirmatively demonstrate that the statute at issue conforms with “the Nation’s historical tradition of firearm regulation” when weighed against the “unqualified command” of the Second Amendment. 142 S. Ct. 2111, 2129-30 (2022).

Even if this Court chooses instead to conduct a more traditional means-end scrutiny test, the Government nevertheless fails to adequately establish that the statute is so essential to the public function of the State as to justify excluding noncitizens. See Cabell v. Chavez-Salido, 454 U.S. 432, 439 (1982). Therefore, 18 U.S.C. § 922(g)(5)(A) unconstitutionally infringes on the Second Amendment rights of unauthorized noncitizens, including Torres-Menjivar, and this Court should accordingly grant Torres-Menjivar’s motion to dismiss.

A. The plain language, prior jurisprudence, and historical context of the Second Amendment indicate that the scope of “the people” encompasses noncitizens as well as citizens.

The Second Amendment to the United States Constitution guarantees that “the right of the people to keep and bear Arms . . . shall not be infringed.” U.S. Const. amend. II. This Court’s recent decisions in Heller and McDonald further clarify that this right belongs not only to American communities writ large, but also to any individual seeking to use firearms in self-defense both within and outside the home. 554 U.S. at 581; 561 U.S. at 767 (holding that Second Amendment right was “fundamental” to nation’s order and liberty). This fundamental right, along with the other protections of the Bill of Rights, cannot and should not be limited exclusively to citizens; all those who call this nation home are entitled to defend themselves and

their loved ones from harm. See United States v. Huitron-Guizar, 678 F.3d 1164, 1170 (10th Cir. 2012) (“[W]hy exactly should all aliens who are not lawfully resident be left to the mercies of burglars and assailants?”).

1. No explicit Supreme Court precedent exists for how or whether the Second Amendment should apply to noncitizens.

This Court has thus far been silent on which categories of people merit the protections of the Second Amendment. The majority in Heller referred variously to “the political community,” “all Americans,” “citizens,” and “the people,” without clarifying which of those terms, if any, best delineated the Amendment’s precise scope. 554 U.S. at 580, 581, 595. Nor does it even purport to address these secondary questions: whether and how the Second Amendment applies to noncitizens was “not part of the calculus.” Huitron-Guizar, 678 F.3d at 1168; see also Friedman v. City of Highland Park, 784 F.3d 406, 410 (7th Cir. 2015). Nevertheless, the language of Heller and the context of its analysis provide us with a valuable starting point from which to conduct a more detailed analysis of the Second Amendment rights of noncitizens.

2. The language of Heller and Verdugo-Urquidez suggests that the rights of “the people” in the Second Amendment are not exclusive to citizens.

Although Heller refers at times to the rights of “citizens” or “Americans,” these are not terms of art, and should not be understood to exclude immigrants. See Huitron-Guizar, 678 F.3d at 1168; see also Meza-Rodriguez, 798 F.3d at 669 (citing Heller, 554 U.S. at 625) (holding that language of Heller was not exhaustive attempt to delimit scope of “people” in Second Amendment). In fact, the Court in Heller cautions against construing the scope of “the people” too narrowly, emphasizing that the term refers to “all members of the political community” rather than an “unspecified subset.” 554 U.S. at 580. The Heller majority also relied on Verdugo-Urquidez, a Fourth Amendment analysis from a decade prior which attempted to more rigorously

define the meaning of “the people” in that context. 494 U.S. at 265. This reliance suggests that the definition laid out in Verdugo remains dispositive for Second Amendment questions.

Verdugo-Urquidez in turn suggests that the meaning of “the people” remains consistent throughout the First, Second, and Fourth Amendments, a comparative analysis echoed by the Heller majority. Id.; see also Heller, 554 U.S. at 592 (analogizing First, Second, and Fourth Amendments as codifiers of pre-existing rights). The Court characterizes “the people” as encompassing both those who “are part of a national community” and those who “have otherwise developed sufficient connection with this country.” Verdugo-Urquidez, 494 U.S. at 265.

In fact, Verdugo-Urquidez goes further still: it explicitly specifies that the above definition includes noncitizens and establishes a two-part test for determining whether those noncitizens satisfy the “sufficient connection” standard set forth above: noncitizens are included in “the people” if they (1) are present in the United States voluntarily, and (2) have accepted “some societal obligations.” Id. at 271, 273. Justice Kennedy’s concurrence suggests that the scope of “the people” may well be broader still, and that the language of the Bill of Rights was intended to be inclusive rather than exclusive. Id. at 276 (Kennedy, J., concurring). But neither Heller nor Verdugo-Urquidez, preoccupied as they are with broader Constitutional questions, yield a conclusive answer with regards to the Second Amendment’s treatment of noncitizens.

3. This Court’s historic treatment of the other amendments of the Bill of Rights consistently emphasizes that even noncitizens are entitled to a wide array of Constitutional protections.

This Court has long emphasized that the protections of the Bill of Rights are not limited exclusively to citizens: mere alienage alone cannot erode an individual’s inherent rights. Yick Wo v. Hopkins, 118 US 356, 368 (1886). This Court’s treatment of other similar amendments provides a useful lens through which to clarify the scope of the right to bear arms. Because the first ten amendments were added to the Constitution simultaneously, identical words and phrases

shared among those amendments should also share a consistent meaning. See Meza-Rodriguez, 798 F.3d at 670; see also Powerex Corp. v. Reliant Energy Servs., Inc., 551 U.S. 224, 232 (2007); Sorenson v. Sec’y of Treasury, 475 U.S. 851, 860 (1986) (emphasizing that identical words ought carry identical meaning throughout statute or constitution).

This Court has consistently held that even noncitizens are entitled to the fundamental rights of due process, representation, and trial by jury. See Wong Wing v. United States, 163 U.S. 223, 238 (1896). Those rights further extend even to those “whose presence in this country is unlawful, involuntary, or transitory.” Mathews, 426 U.S. at 77. The same holds true for the Fourth Amendment’s protection against illegal searches and seizures. See INS v. Lopez-Mendoza, 468 U.S. 1032, 1034 (1984) (ascribing Fourth Amendment rights to undocumented appellees); see also Almeida-Sanchez v. United States, 413 U.S. 266, 273 (1973).

In each of these prior decisions, the Court has held that the fundamental Constitutional rights that guarantee individuals due process of law and protect them from unjust encroachment on their property and persons apply even to noncitizens. The Second Amendment, like the Fourth Amendment, falls into the latter category, and it would be inconsistent to the point of absurdity to claim that noncitizens are entitled to only one such set of rights and not the other. See Huitron-Guizar, 678 F.3d at 1168 (“It would require us to hold that the same ‘people’ who receive Fourth Amendment protections are denied Second Amendment protections, even though both rights seem at root concerned with guarding the sanctity of the home against invasion.”).

The plain language of the amendment itself, coupled with this Court’s treatment of both the Second Amendment itself and the rest of the Bill of Rights writ large, supports the ascription of the right to bear arms even to noncitizens. Those circuits that have opposed the Second Amendment rights of noncitizens have chiefly done so on the weight of Heller’s reference to

“law-abiding, responsible citizens,” and its exclusion of felons and the mentally ill. 554 U.S. at 626, 635. They contend that unauthorized entry to and presence in the United States renders noncitizens neither “law-abiding” nor “responsible,” thereby excluding them from the “people” of the Second Amendment. United States v. Carpio-Leon, 701 F.3d 974, 975 (4th Cir. 2012).

However, this attempt to falsely equate unauthorized noncitizens with felons and other serious wrongdoers falls short in several respects. Despite the recent increase in popular animus towards unauthorized noncitizens, neither entering the country improperly nor remaining within its borders while unauthorized is or has ever been a felony offense. 8 U.S.C. § 1325; see also Meza-Rodriguez, 798 F.3d at 673. In fact, Congress actively declined to elevate unauthorized entry to the level of a felony when the Senate rejected H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005. 109th Cong. § 203(2)(D) (2005).

In Carpio-Leon, the Fourth Circuit turns to United States v. Moore in an attempt to demonstrate that Nicolas Carpio-Leon’s immigration violation constituted conduct just as unlawful as that of the appellee in Moore, and therefore did not deserve the protections of the Second Amendment. 701 F.3d at 981 (citing Moore, 666 F.3d 313, 319-20 (4th Cir. 2012)). Moore, however, had prior felony convictions for drug offenses, robbery, and multiple assaults with a deadly weapon; in contrast, Carpio-Leon’s only crime was entering the country without authorization. Compare Moore, 666 F.3d at 315, with Carpio-Leon, 701 F.3d at 975.

The Fourth Circuit itself had two years earlier held that even convicted domestic abusers were entitled to the protection of the Second Amendment, albeit at a diluted level of scrutiny, despite the acknowledged fact that “domestic abusers often commit acts that would be charged as felonies if the victim were a stranger.” United States v. Chester, 628 F.3d 673, 690 (4th Cir. 2010) (Davis, J., concurring). By every legal and moral metric, violent domestic abuse is conduct

far more heinous than the simple transgression of an unauthorized border crossing; why then should perpetrators of the former retain their rights while the latter languish without?

In addition, after the Seventh Circuit held in Meza-Rodriguez that noncitizens are entitled to the protection of the Second Amendment, subsequent circuits confronted with similar cases have circumvented the Constitutional question entirely, opting to assume the existence of noncitizens' Second Amendment rights without deciding. See Perez, 6 F.4th at 453; United States v. Torres, 911 F.3d 1253 (9th Cir. 2019). This further suggests that the act of unauthorized entry, by itself, does not foreclose a noncitizen's access to the right to bear arms.

4. In this case, Torres-Menjivar has established sufficient connections to our nation's community under the Verdugo-Urquidez test and is therefore protected by the Second Amendment.

Even if this court finds that noncitizens are not entitled to Second Amendment rights in all circumstances, Torres-Menjivar nevertheless displays sufficient connections to the United States to merit the protections of the Second Amendment. The two-part test set forth in Verdugo-Urquidez provides the best standard for assessing those connections. 494 U.S. at 273.

First, Torres-Menjivar was present in the country voluntarily. See id. Although she initially entered the United States as a minor, Torres-Menjivar has called the state of Albers home ever since, and has chosen to remain in the country with her family for twenty-six years: a clear indicator of voluntary residence. See Meza-Rodriguez, 798 F.3d at 666 (noting that appellee has remained in United States since his arrival at age four or five). She is also the primary caretaker of her grandmother, who suffers from diabetes and dementia. [R. 2].

Torres-Menjivar has also accepted enough societal obligations to qualify as a part of the national community. See Verdugo-Urquidez, 494 U.S. at 273. During her time in the United States, Torres-Menjivar attended public school, participated in sports, and received a valid driver's license. [R. 2-3]. She volunteers her time at a local women's shelter. [R. 3]. She does not

have a prior criminal record, or even so much as a single outstanding traffic fine. [R. 3]. Neither her noncitizen status nor the unauthorized nature of her residence in the country negates these connections. See id. at 671. In this case, Torres-Menjivar has cultivated the necessary connections. See id. (holding that attendance of public schools, close relationships with family members, and history of local work rose to level of “substantial connections”).

B. 18 U.S.C. § 922(g)(5)(A) unjustly infringes on the constitutional right of unauthorized noncitizens to keep and bear arms for self-defense.

If this Court determines that unauthorized noncitizens such as Torres-Menjivar are entitled to the protections of the Second Amendment, it should then assess whether the statute at issue infringes on those protections to an unconstitutional extent. See Bruen, 142 S. Ct. at 2125.

1. Weighing the plain text of the Second Amendment against this country’s history of firearms regulation correctly avoids the inherent ambiguity of a means-end scrutiny analysis.

In Bruen, this Court indicated that subjecting a statute that infringed on an individual’s Second Amendment rights to a pure means-end scrutiny test, preferring instead to circumvent that analytical quagmire entirely. Id. at 2129 (observing that Heller had conducted historical and textual analysis, not means-end test, to assess scope of Second Amendment right and answer questions of constitutionality). When subjected to such a reading, the Government bears the burden of showing that the statute comports with the nation’s traditions of firearms regulation, when weighed against the presumptive protection of the Second Amendment. See id. at 2129-30.

In this case, the Government has not demonstrated any such alignment with prior regulatory tradition: they merely claim a general interest in constraining the behavior of potential bad actors without presenting any specific evidence pertaining to the actual benefits of the statute, its alternatives, or legislative history. This unsubstantiated insistence fails to in any way surmount a right as essential as that enshrined by the Second Amendment.

1. Even under intermediate scrutiny, the Government fails to justify the extent to which the statute at issue infringes on the Second Amendment.

Should this Court instead determine that the record in this case is sufficiently distinct from Bruen to merit a more conventional means-end scrutiny analysis, the statute at issue still fails to survive any level of scrutiny.

Even Congress lacks the power to simply override the entire body of Second Amendment rights without a substantive demonstration that its proposed restrictions are the only effective regulatory option. See Perez, 6 F.4th at 460-61 (Menashi, J., concurring in the judgment). Merely alleging a general interest in public safety, as the Government has done in this case, is insufficient without actual proof. There exists scant evidence that unauthorized noncitizens are more prone to illegal activities generally or firearm violations in particular: the Government's assertions are entirely unsupported by tangible data. See Meza-Rodriguez, 798 F.3d at 673. In fact, the lion's share of scholarship on the issue suggests that noncitizens and especially undocumented persons are orders of magnitude less likely to cause incidents of gun violence.

In 1973, this Court held that barring noncitizens from the practice of law violated their right to equal protection. See In re Griffiths, 413 U.S. 717, 725 (1973) (holding that Government could adequately control and monitor professional fitness of prospective lawyers without imposing wholesale ban). Firearm owners, like lawyers, are subject to both an initial vetting process and subsequent scrutiny and control; the state possesses a myriad of regulatory tools to satisfy its public safety interest without removing the firearm right entirely. Because those reasonable alternatives exist, the state's public safety argument does not justify a categorical ban.

Therefore, 18 U.S.C. § 922(g)(5)(A) is an unconstitutional violation of the Second Amendment rights of unauthorized noncitizens currently residing in the United States, including Torres-Menjivar, and this Court should grant her motion to dismiss.

Applicant Details

First Name **Robert**
 Middle Initial **K**
 Last Name **Carpenter**
 Citizenship Status **U. S. Citizen**
 Email Address carpenterr2024@lawnet.ucla.edu

Address

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Contact Phone Number **6508617405**

Applicant Education

BA/BS From **Haverford College in Pennsylvania**
 Date of BA/BS **May 2018**
 JD/LLB From **University of California at Los Angeles (UCLA) Law School**
http://www.nalplawschoolsonline.org/ndlsdir_search_results.asp?lscd=90503&yr=2011
 Date of JD/LLB **May 10, 2024**
 Class Rank **Not yet ranked**
 Law Review/Journal **Yes**
 Journal(s) **UCLA Journal of Law & Technology**
 Moot Court Experience **Yes**
 Moot Court Name(s) **UCLA Law Skye Donald Moot Court Competition (2022)**
UCLA Law Spring Internal Moot Court (2023)

Bar Admission

Prior Judicial Experience

Judicial
Internships/ **No**
Externships
Post-graduate
Judicial Law **No**
Clerk

Specialized Work Experience

Recommenders

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Langer, Maximo
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Marcus, David
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This applicant has certified that all data entered in this profile and any application documents are true and correct.

Robert Kory Carpenter

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June 12, 2023

The Honorable Jamar K. Walker
United States District Court
for the Eastern District of Virginia
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I am a rising third-year student at UCLA School of Law, where I am an Articles Editor of the *UCLA Journal of Law and Technology* and a member of the UCLA Law Moot Court Honors Board. I am respectfully applying for a clerkship with your chambers for the 2024–2025 term.

My desire to clerk stems from my interest in legal research and writing, and my experience working as a paralegal prior to law school. In my first year of law school, I realized that I have a passion for communicating complex concepts in a way that is clear and easy for my audience to understand, and I have pursued my passion for writing and oral advocacy at UCLA Law. I was honored to be selected as a member of the Moot Court Honors Board and an Articles Editor for the *UCLA Journal of Law and Technology*, and I look forward to continuing to hone my oral advocacy and writing skills.

On the experiential side, my work as a paralegal assisting a special counsel investigation into the State of New Jersey's corporate tax incentive program strengthened my desire to clerk in your chambers. Not only did I enjoy traveling around New Jersey for witness interviews, but I also appreciated the process of uncovering the truth and presenting our findings to the public in a written report. The experience concretized my desire to become a government lawyer, ideally a corruption prosecutor, and I am particularly interested in clerking in your chambers given your record of public service.

Enclosed please find my resume, unofficial law school transcript, and writing sample. In addition, I have attached letters of recommendation from Professor Hiroshi Motomura (motomura@law.ucla.edu, (310) 206-5676), Professor David Marcus (marcus@law.ucla.edu, (310) 794-5192), and Professor Máximo Langer (langer@law.ucla.edu, (310) 825-8484). I am available at your convenience and would be privileged for the opportunity to interview with you. Thank you very much for your consideration.

Respectfully,



Robert Kory Carpenter

Robert Kory Carpenter

10401 Wilshire Boulevard, Apt. 401, Los Angeles, CA 90024
(650) 861-7405 | CarpenterR2024@lawnet.ucla.edu

EDUCATION

UCLA School of Law, Los Angeles, CA

Juris Doctor expected May 2024 | GPA: 3.458

Honors: Leveton Memorial Scholarship

Journals: UCLA Journal of Law and Technology, *Articles Editor*

Moot Court: Moot Court Honors Board, *Problem Developer*

1L Skye Donald Moot Court Competition, *Judge* | Moot Court, *Participant*

Activities: UCLA Law Fellows, *Mentor* | UCLA Law Run Club, *Member*

Haverford College, Haverford, PA

Bachelor of Arts, History, May 2018 | GPA: 3.513

Honors: Andrew Silk Summer Scholarship | Centennial Conference Academic Honor Roll (3 of 3 years)

Activities: Men's Varsity Lacrosse Team | Transfer Student Resource Person

EXPERIENCE

U.S. Securities and Exchange Commission

San Francisco, CA

SEC Legal Intern, Division of Enforcement

Summer 2023

FINRA

Los Angeles, CA

Legal Extern, Department of Enforcement

Summer 2022

- Drafted memoranda of law in support of formal disciplinary actions
- Performed factual and legal research in preparation for on the record interviews
- Crafted summaries of deposition transcripts and other evidence for use in complaints and hearings

Walden Macht & Haran LLP

New York, NY

Paralegal Specialist

April 2019 – June 2021

Task Force Investigation into Improperly Awarded Tax Incentives

- Cite-checked, proofread, and prepared exhibits for three reports presenting findings to the public
- Attended witness interviews and memorialized findings
- Organized and contextualized relevant documents and facts within case chronologies

Fraudulent Invoice Litigation

- Assisted with drafting of legal briefs for federal litigation against construction vendors who used fraudulent invoices to double charge the firm's clients
- Prepared and introduced hundreds of documents during ten depositions taken over a month
- Managed creation and maintenance of e-discovery database containing thousands of case documents

Court Filing Responsibilities

- Filed court documents for legal proceedings in U.S. District Courts, New York State Supreme Court, and New Jersey Superior Court
- Monitored judges' and jurisdictions' local rules to ensure case filings were compliant

Unified Social

New York, NY

Digital Campaign Coordinator

September 2018 – February 2019

- Executed advertising campaigns across major social media platforms for Toyota and AT&T
- Drafted weekly client reports that identified successes and opportunities for improvement

MAXSA Innovations

Fairfax Station, VA

Marketing Intern

Summer 2017

- Implemented search engine optimization (SEO) strategies to improve MAXSA products' position in Amazon.com search results
- Ran paid search word campaigns on Amazon Marketing Services that doubled one product's sales

INTERESTS

Running, museums, movies, foreign affairs, music, and San Francisco 49ers Football

Student Copy / Personal Use Only | [405682806] [CARPENTER, ROBERT]

University of California, Los Angeles

LAW Student Copy Transcript Report

For Personal Use Only

This is an **unofficial/student copy** of an academic transcript and therefore does not contain the university seal and Registrar's signature. Students who attempt to alter or tamper with this document will be subject to disciplinary action, including possible dismissal, and prosecution permissible by law.

Student Information

Name: CARPENTER, ROBERT K
 UCLA ID: 405682806
 Date of Birth: 04/26/XXXX
 Version: 08/2014 | SAITONE
 Generation Date: June 03, 2023 | 06:32:06 PM
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Program of Study

Admit Date: 08/23/2021
 SCHOOL OF LAW
 Major:
 LAW

Degrees | Certificates Awarded

None Awarded

Graduate Degree Progress

SAW COMPLETED IN LAW 658, 22F

Previous Degrees

None Reported

California Residence Status

Resident

Student Copy / Personal Use Only | [405682806] [CARPENTER, ROBERT]

Fall Semester 2021

Major:
LAW

CONTRACTS	LAW 100	4.0	12.0	B
INTRO LEGL ANALYSIS	LAW 101	1.0	0.0	P
LAWYERING SKILLS	LAW 108A	2.0	0.0	IP
Multiple Term - In Progress				
PROPERTY	LAW 130	4.0	13.2	B+
CIVIL PROCEDURE	LAW 145	4.0	13.2	B+
		<u>Atm</u>	<u>Psd</u>	<u>Pts</u>
	Term Total	13.0	13.0	38.4
				<u>GPA</u>
				3.200

Spring Semester 2022

LGL RSRCH & WRITING	LAW 108B	5.0	15.0	B
End of Multiple Term Course				
CRIMINAL LAW	LAW 120	4.0	14.8	A-
TORTS	LAW 140	4.0	13.2	B+
CONSTITUT LAW I	LAW 148	4.0	12.0	B
IMMIGRATION POLICY	LAW 165	1.0	0.0	P
		<u>Atm</u>	<u>Psd</u>	<u>Pts</u>
	Term Total	18.0	18.0	55.0
				<u>GPA</u>
				3.235

Fall Semester 2022

BUSINESS ASSOCIATNS	LAW 230	4.0	14.8	A-
IMMIGRATION LAW	LAW 331	4.0	16.0	A
HUMAN RGTS WAR CRIM	LAW 658	3.0	12.0	A
MEDIATION	LAW 707	4.0	0.0	P
		<u>Atm</u>	<u>Psd</u>	<u>Pts</u>
	Term Total	15.0	15.0	42.8
				<u>GPA</u>
				3.891

Spring Semester 2023

EVIDENCE	LAW 211	4.0	13.2	B+
FEDERAL COURTS	LAW 212	3.0	9.9	B+
GLBL PRSPTV CRM PRO	LAW 614	3.0	12.0	A
INTERNL INVESTGN	LAW 737	3.0	12.0	A
		<u>Atm</u>	<u>Psd</u>	<u>Pts</u>
	Term Total	13.0	13.0	47.1
				<u>GPA</u>
				3.623

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Memorandum

RESIDENCE ESTABLISHED 08-10-2022

LAW Totals

	<u>Atm</u>	<u>Psd</u>	<u>Pts</u>	<u>GPA</u>
Pass/Unsatisfactory Total	6.0	6.0	N/a	N/a
Graded Total	53.0	53.0	N/a	N/a
Cumulative Total	59.0	59.0	183.3	3.458
Total Completed Units	59.0			

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END OF RECORD
NO ENTRIES BELOW THIS LINE



Haverford College Official Transcript

Name: Robert K Carpenter
Student ID: 4544452

Print Date: 11/05/2021

Fall 2016

Course	Description	Credits	Grade
ECON	H203A Statistical Methods in Econ	1.0	3.3
HIST	H240A History/Principles Quakerism	1.0	3.7
HIST	H308A Building Monuments	1.0	4.0

Academic Program History

Program: Haverford College Undergrad
05/19/2018: Completed Program
05/19/2018: History at Haverford Major

Semester Totals Credits 3.0 Sem GPA 3.667

Degrees Awarded

Degree: Bachelor of Arts
Confer Date: 05/19/2018
Plan: History at Haverford

Spring 2017

Course	Description	Credits	Grade
ANTH	B204 North American Archaeology	1.0	4.0
BIOL	H123G Pers Biol: Sc Lit	0.5	4.0
BIOL	H127H Prsp Bio:gen Div	0.5	3.7
ECON	S041 Public Economics	1.0	3.7
HIST	H357B Topics in European History	1.0	4.0

Semester Totals Credits 4.0 Sem GPA 3.888

Transfer Credits

Transfer Credit from Vassar College
2014 FALL

Course	Description	Status	Credits
ENGL 177	Imagining the City	Accepted	0.5
HIST 160	Rediscovering U.S. History	Accepted	1.0
JNSE 105	Elementary Japanese	Accepted	1.5
PSYC 105	Intro Psyc: A Survey	Accepted	1.0

2015 SPR

Course	Description	Status	Credits
HIST 208	Human Rights/US FOR POL 1945	Accepted	1.0
HIST 200	Conceptualizing STS: Theor/Prac	Accepted	1.0
JNSE 106	Elementary Japanese	Accepted	1.5

Fall 2017

Course	Description	Credits	Grade
ECON	B225 Economic Development	1.0	3.3
HIST	H331A Landscapes Amer Empire	1.0	3.3
HIST	H400A Senior Thesis Seminar	1.0	3.3
MATH	B101 Calculus I	1.0	P

Semester Totals Credits 4.0 Sem GPA 3.300

Spring 2018

Course	Description	Credits	Grade
BIOL	H118B Plants and People	1.0	3.0
EALC	H203B Japanese Prints	1.0	3.7
HIST	H400B Senior Thesis Sem	1.0	3.0

Semester Totals Credits 3.0 Sem GPA 3.233

Beginning of Undergraduate Record

Fall 2015

Course	Description	Credits	Grade
ENGL	AP3 English Language and Comp AP	0.5	T
ENVS	AP1 Environmental Science AP	0.5	T
HIST	AP3 US History AP	1.0	T
HIST	AP4 World History AP	0.5	T

Transfer Totals: 2.5

Course	Description	Credits	Grade
EALC	H230A Postwar Japanese Cinema	1.0	3.7
ENGL	H216A America Strain: Music	1.0	3.3
HIST	H226A 20th C Europe	1.0	3.7
RELG	H107A Vocabularies of Islam	1.0	P

Semester Totals Credits 4.0 Sem GPA 3.567

Spring 2016

Course	Description	Credits	Grade
ECON	H105B Intro Economics	1.0	3.0
ENGL	H272B Intro To Film	1.0	3.7
HIST	H119B Internat Hist Us	1.0	3.7
STAT	H103B Intro Prob & Stat	1.0	3.0

Semester Totals Credits 4.0 Sem GPA 3.350

Undergraduate Career Totals

Cumulative Totals Credits 32.0 Cum GPA 3.513

End of Haverford College Official Transcript

James Keane, Registrar

OFFICE OF THE REGISTRAR
HAVERFORD COLLEGE
 370 LANCASTER AVENUE
 HAVERFORD, PA 19041-1392

EXPLANATION OF TRANSCRIPT

HAVERFORD SYSTEM OF GRADING

4.0	= A	Highest Grade
3.7	= A-	
3.3	= B+	
3.0	= B	
2.7	= B-	
2.3	= C+	
2.0	= C	
1.7	= C-	
1.3	= D+	
1.0	= D	Lowest Passing Grade
0.0	= F	
CIP	Course in Progress	
P	Pass - 1.0 or higher	
INC	Approved Incomplete	
W	Approved Withdrawal	
CR	Pass in a BM P/F Course	
NC	Failure in a BM P/F Course	

LENGTH OF ACADEMIC YEAR

Haverford's Academic Year contains two semesters as follows:
 Semester 1 – 67 Class Days plus a 7-Day Final Exam Period
 Semester 2 – 69 Class Days plus a 9-Day Final Exam Period

CLASS PERIODS:

55 Minutes in length on Monday/Wednesday/Friday
 90 Minutes in length on Tuesday/Thursday

COURSE NUMBERING SYSTEM

- DEPARTMENT CODE** – A four-letter code assigned to each Department;
 (e.g. BIOL for Biology)
- COURSE NUMBER**
 A three-digit number as follows:
 001-099 – Elementary/Intermediate languages
 100-199 – Courses without prerequisites
 200-299 – Second Year Courses
 300-399 – Advanced Courses
 400/460/480 – Senior Thesis/Teaching Fellow/Ind. Study
H preceding a course number is a Haverford Course
B preceding a course number is a Bryn Mawr Course
S preceding a course number is a Swarthmore Course
P preceding a course number is a U Penn Course

COURSE CREDIT SYSTEM

One Haverford credit is equal to 4.0 Sem. Hrs.
 One-half Haverford credit is equal to 2.0 Sem. Hrs.

Minimum credit requirement for the Degree:
 32 Credits equal to 128 Semester Hours

ACCREDITATION

Haverford College is accredited by the Middle States Association of Colleges and Secondary Schools, CHE

QUAKER CONSORTIUM

Through the Quaker Consortium, courses may be taken for credit at **Bryn Mawr College**, **Swarthmore College**, and the **University of Pennsylvania** during the academic year. Grades, credit values, and calculations for such courses are included on the student's Haverford transcript. Summer work at these colleges is **not** a part of the Consortium and is considered transfer credit.

**PLEASE DIRECT ALL QUESTIONS TO
 THE REGISTRAR
 HAVERFORD COLLEGE, HAVERFORD, PA 19041-1392
 PHONE: (610) 896-1233**

TO TEST FOR AUTHENTICITY: Translucent globe icons *MUST* be visible from both sides when held toward a light source. The face of this transcript is printed on red SCRIP-SAFE® paper with the name of the institution appearing in white type over the face of the entire document.

HAVERFORD COLLEGE•HAVERFORD COLLEGE• HAVERFORD COLLEGE • HAVERFORD COLLEGE • HAVERFORD COLLEGE •

ADDITIONAL TESTS: The institutional name and the word COPY appear on alternate rows as a latent image. When this paper is touched by fresh liquid bleach, an authentic document will stain brown. A black and white or color copy of this document is not an original and should not be accepted as an official institutional document. This document cannot be released to a third party without the written consent of the student. This is in accordance with the Family Educational Rights and Privacy Act of 1974. If you have any questions about this document, please contact our office. ALTERATION OF THIS DOCUMENT MAY BE A CRIMINAL OFFENSE!

13265513

SCRIP-SAFE® Security Products, Inc. Cincinnati, OH

Student No: 999460685

Date Issued: 05-NOV-2021

Record of: Robert Kory Carpenter

Page: 1

Course Level: Undergraduate

High School: Mountain View High School

Current Program

Major : Undeclared

SUBJ NO.	COURSE TITLE	UNITS GRD	PTS
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TRANSFER CREDIT ACCEPTED:

2012-2014 CEEB - Advanced Placement

ENGL	English Language & Composition	1.0	TR
ENVI	Environmental Science	1.0	TR
HIST	World History	1.0	TR
HIST	American History	1.0	TR
EUnit	4.0 GPAUnit: 0.0 QPts: 0.00 GPA: 0.00		

VASSAR CREDIT:

Fall 2014

ENGL 177	Imagining the City	0.50	SA	0.00
HIST 160	Rediscovering U.S. History	1.00	A-	3.70
JAPA 105	Elementary Japanese	1.50	B+	4.95
PSYC 105	Intro Psyc: A Survey	1.00	A-	3.70
EUnit	4.0 GPAUnit: 3.5 QPts: 12.35 GPA: 3.52			

Spring 2015

HIST 208	Human Rights/US For Pol 1945	1.00	A-	3.70
JAPA 106	Elementary Japanese	1.50	A-	5.55
PHED 320	Varsity Men's Lacrosse	0.50	SA	0.00
STS 200	Conceptualizing STS:Theor/Pract	1.00	A-	3.70
EUnit	4.0 GPAUnit: 3.5 QPts: 12.95 GPA: 3.70			

***** TRANSCRIPT TOTALS *****

	Earned Unit	GPA Un.	Points	GPA
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TOTAL VASSAR	8.0	7.0	25.30	3.61
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TOTAL TRANSFER	4.0	0.0	0.00	0.00
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OVERALL	12.0	7.0	25.30	3.61
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***** END OF TRANSCRIPT *****

Calvin H. Mallett
COLLEGE R. Mallett
REGISTRAR

UNDER P.L. 90-260 (FAMILY EDUCATIONAL RIGHTS & PRIVACY ACT-1974) THIS TRANSCRIPT MAY NOT BE RELEASED OR REVEALED TO A THIRD PARTY WITHOUT WRITTEN CONSENT OF THE STUDENT.

ISSUED TO
STUDENT

VASSAR COLLEGE

Poughkeepsie, New York 12604

VASSAR UNIT SYSTEM

Vassar converted to a unit system in 1969 in order to bring crediting closer to what is educationally meaningful to each student.

Each candidate for the Bachelor of Arts degree is required to complete 32 units of work, equivalent to the standard of 120 semester hours recognized by the Board of Regents of the State University of New York. The system of units is four-fold:

- (a) The single unit, a course for one semester
- (b) The half-unit, equivalent to one-half of a semester course taken over an entire semester or for a half semester only
- (c) The double unit, consisting of a year sequence of semester courses or the equivalent of a two-semester course in one term
- (d) The unit and a half, earned- in one course over one semester.

Therefore, if one must have a mathematical equivalent, a value of 3.75 credit hours per unit is obtained by dividing 120 credit hours by 32 units.

MARKING SYSTEM

Grades Included In Average:

A indicates achievement of distinction. 4 grade points for each course unit.

B indicates general achievement of a high order. 3 grade points for each course unit.

C indicates the acceptable standard for graduation from Vassar College. 2 grade points for each course unit.

C-, D+, D indicate degrees of unsatisfactory work, below standard grade but, which is of sufficient quality and quantity to be counted in the units required for graduation from Vassar College. 1.7, 1.3, and 1.0 grade points for each course unit.

F work evaluated as **F** may not be counted toward the degree.

Grades not Included in Average:

SA — Satisfactory — minimum passing grade is "C" } Given for independent work,
UN — Unsatisfactory } reading courses and field work.

DS — Distinction — Applies to Senior Independent Work 399, Independent Work 298, as well as some Senior Thesis/Projects where department policy indicates they may be graded distinction.

IN — Incomplete with permission.

WD — Withdrawing from course after the official drop period. This grade bears no penalty.

WP — A grade assigned by the registrar to those students who successfully completed the first semester and subsequently withdrew from a full-year course.

NG — A grade given in all non-credit courses, such as Music Performance.

AU — Grade given to student auditing a course. No record of audited courses kept after 1957.

NA — Grade not available at this time.

PA — Pass — minimum passing grade is "D" } Given in courses elected under
FL — Fail — (1976/77-1981/82) } Pass/Fail option or Non-Recorded option.

From 1937/38 through 1959/60, plus grades were used as intermediate grades with credit values: B + = 3.5; C + = 2.5; D + = 1.5.

Beginning in 1960/61, minus grades were added to the marking system and plus grades were revised to new values: A - = 3.7; B + = 3.3; B - = 2.7; C + = 2.3; C - = 1.7; D + = 1.3.

Beginning in Fall 2002, letter grades are recorded on the Vassar transcript for non-Vassar post-matriculation transfer work, but these grades are not included in the Vassar grade-point average. These grades appear with an asterisk preceding the grade.

GRADUATION REQUIREMENTS:

All undergraduates are candidates for the AB degree.

1935-1942: 64 points, equivalent to 120 semester hours.

1943-1968: 120 points (semester hours) were required.

1969/70-2018/19: 34 units required.

2019/20 onward: 32 units required.

A 2.0 grade average both overall and in the Field of Concentration is required.

Semester: One semester is approximately fifteen weeks.

Vassar College abolished rank in class beginning with the 1971/72 academic year.

UCLA School of Law

HIROSHI MOTOMURA
SUSAN WESTERBERG PRAGER DISTINGUISHED PROFESSOR OF LAW
FACULTY CO-DIRECTOR, CENTER FOR IMMIGRATION LAW AND POLICY

SCHOOL OF LAW
BOX 951476
LOS ANGELES, CALIFORNIA 90095-1476
Phone: (310) 206-5676
Email: motomura@law.ucla.edu

May 16, 2023

Dear Judge:

I write this letter to offer a strong recommendation on behalf of Robert Carpenter for a clerkship in your chambers.

I've had consistent contact with Rob since the spring of 2022. It was the spring semester of his first year at the UCLA School of Law, and he was enrolled in my course on Immigration Policy in a Contentious Age. Then, in fall 2022, Rob took my Immigration Law course. Since we first met, he has reached out to meet with me on a regular basis to talk about course material as well as general questions about his career plans and current events.

Rob is an impressive student, very thoughtful and very analytical. This became clear in the spring 2022 Immigration Policy course. This was a small-group first-year elective, with 20 students and entirely based on discussion of readings on current policy issues. Students wrote short papers in reaction to the readings and then engaged in robust discussion during each session. Rob stood out as especially thoughtful in both his writing and his contributions to our class discussions. I was especially impressed by his willingness to raise questions about various forms of conventional wisdom that can hamper honest discussion of immigration policy. It was typical of him to ask a question that probed a very basic assumption that others had been making without the degree of thought that the assumption actually deserved.

In my Immigration Law course – a challenging four-unit course that included close attention to complex statutes, constitutional doctrine, and the practical challenges of client counseling, Rob continued his pattern of thoughtful questions and insightful contributions. In the group of about 65 students, he stood out. Outside the classroom, Rob took the time to come to office hours to discuss the material more deeply than had been possible in class. On those occasions, I appreciated his observations about my approach to teaching and about the flow of group discussions.

Rob earned a solid “A” in Immigration Law. This was entirely consistent with his classroom performance and the many conversations that we had about the material. The first-year elective on Immigration Policy was a pass/no-pass course without grading, but he was outstanding in that setting, too. And I know from his short papers in Immigration Policy that he is a strong writer. (Immigration Law did not call for any writing other than the final exam.)

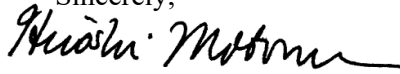
Rob will be an excellent judicial clerk. He is very strong academic, and you will find that he is a delightful person.

May 16, 2023

Page 2

Please contact me if I can provide any further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Hiroshi Motomura".

Hiroshi Motomura
Susan Westerberg Prager Professor of Law
Faculty Co-Director, Center for Immigration Law and
Policy



MAXIMO LANGER
DAVID G. PRICE & DALLAS P. PRICE PROFESSOR OF LAW
DIRECTOR OF THE TRANSNATIONAL PROGRAM ON CRIMINAL JUSTICE

SCHOOL OF LAW
BOX 951476
LOS ANGELES, CALIFORNIA 90095-1476
Phone: (310) 825-8484
Email: langer@law.ucla.edu

June 5, 2023

Dear Judge:

I am writing this letter to express my strong support of Robert Carpenter's application for a clerkship with your chambers. Robert is smart, hardworking, a strong and clear writer, and collegial. In addition, he has prior experience as a legal intern and extern—experiences that will be very valuable as a law clerk—and is very interested in doing a clerkship with you. He will be an excellent law clerk.

Rob took my first-year Criminal Law course and my Global Perspectives on Criminal Procedure seminar at UCLA School of Law. He was an excellent student in both classes. In a big class like Criminal Law, he was always prepared for class, worked hard, showed a clear understanding of the subject matter, and was very thoughtful in his responses to my questions when I called on him in class. In addition, his final exam showed he writes well, even under time pressure. On top of these attributes, in Global Perspectives on Criminal Procedure he also demonstrated his great research abilities and his creativity in his final paper. He wrote on the relationship between plea bargaining and sentencing and immigration removal proceedings in Canada and the United States, applying to this topic a concept developed for a different context. In both classes, Rob also showed that he is passionate and takes interest in his work and is always very collegial with his classmates and with me.

Rob also has prior work experience that will be an asset for the work with you. Last summer, he worked as a legal extern in the Department of Enforcement of the Financial Industry Regulatory Authority. And this summer, he is working as a legal intern in the Division of Enforcement of the U.S. Securities and Exchange Commission. His exposure to law runs even longer since he was a paralegal for over two years at a law firm before coming to law school.

Please do not hesitate to call me (my cellular phone is 310-948-6362) if you need further references or would like to talk more about him.

Sincerely,

A handwritten signature in black ink that reads "Maximo Langer". The signature is stylized, with the first name "Maximo" written in a cursive-like script and the last name "Langer" in a more straightforward, blocky style.

Máximo Langer
David G. Price and Dallas P. Price Professor of Law
Director, Transnational Program on Criminal Justice
University of California, Los Angeles School of Law
President, American Society of Comparative Law
Member, American Law Institute

UCLA School of Law

DAVID MARCUS
VICE DEAN FOR CURRICULAR AND ACADEMIC AFFAIRS
PROFESSOR OF LAW

SCHOOL OF LAW
BOX 951476
LOS ANGELES, CALIFORNIA 90095-1476
Phone: (310) 794-5192
Email: marcus@law.ucla.edu

May 30, 2023

Dear Judge,

I write this letter in support of Rob Carpenter's application to clerk in your chambers. Rob is a bright, hardworking, and deeply engaged student. He matches his passion for the law with unusual grit and effort. Rob would be a terrific clerk, and I highly recommend him.

Rob was one of eighty-eight students in my Fall 2021 Civil Procedure course. I admit that, in a course of that size, I usually cannot get to know every student well. But the Fall 2021 semester was special. The first day of classes was the first day most of the students had engaged in any in-person pursuit of any substance since the pandemic's start. The students were unusually interactive and enthusiastic. Also, some students, even in a group of close to one hundred, stand out from Day 1. This was so with Rob. From the start of the semester, he volunteered fearlessly and frequently, often multiple times per class. Rob was not a gunner and did not volunteer just to grab the spotlight. Rather, Rob offered comments when the material grabbed him, something that happened often. I could tell, as invariably when Rob raised his hand he would follow up with a lengthy conversation after class.

Rob performed quite well in my class, earning a B+ on the final exam. Please appreciate that UCLA Law has an unusually rigorous curve. Students who earn B+ grades at UCLA often would rank higher at schools that give instructors more permission to award grades that better match overall performance.

You will note that Rob's grades have followed an impressive upward trajectory. He and I met at the start of his 2L year last August. Rob, clearly upset, wondered why his deep investment in his coursework was not paying off, in terms of his grades, to the extent he had hoped. We spoke for some time, and I recommended a couple of strategies, including regular visits to his professors' office hours. Rob and I connected a couple of times during the fall semester, and he mentioned that he was giving my advice a go. I was really delighted to learn that Rob aced the fall semester of his 2L year, earning A or A- grades across the board.

I cannot claim credit, as I know that Rob worked incredibly hard. But I am glad that he saw the returns from not giving up and instead doubling down on his studies. To my mind, acceleration in law school matters as much – if not more – than velocity. A student who stumbles a bit out of the gate, then steadily improves, not only demonstrates aptitude and intelligence. The student also demonstrates grit, effort, and perseverance.

Rob continued to persevere admirably this spring semester. He took my Federal Courts course, a notoriously difficult subject and one that tends to attract the school's real law junkies. In many ways,

May 30, 2023

Page 2

Rob turned in a repeat performance, volunteering as he did in Civil Procedure with insightful comments and precise and helpful clarifying questions. He also gave me a taste of my own medicine, coming to office hours every week, without fail, for the entirety of the time I had available. (I joke about the “own medicine” bit – I was delighted to have Rob stop by.) Each week he scrupulously reviewed readings and class notes, then came to office hours with a list of terrific questions that got immediately to the heart of what made the material complicated and interesting. Rob also stayed while others asked questions and often chimed in even if the subject strayed from what he had prepared. His effort and passion were really impressive.

I have not yet seen Rob’s grade, as grading is anonymous at UCLA and I have not yet received the class roster matching the grades I turned in with names. I do not need to know this result, however, to know that Rob succeeded fulsomely in the course. Based on our regular conversations over the course of the semester, Rob surely mastered a huge amount of complex material.

I have not supervised Rob’s writing, so I cannot comment directly on his capacity to carry out a large-scale research project. But I have reviewed several exemplars of Rob’s writing, and they are very strong. One, a brief written for a moot court competition, demonstrates Rob’s facility with practice-oriented legal writing. He has developed a precocious ability for this genre. Rob makes punchy, concise arguments that use authority effortlessly and persuasively. He has a particular knack for the sort of subtly clever ways that good lawyers shade what seems like otherwise objective writing in a persuasive direction. Consider the first sentence of his brief: “Petitioner Squabble, Inc. (the “Platform”) asks the Court to overturn a valid act of the California State Legislature aimed at reigning in social media platforms that censor public speech in inconsistent and partisan ways.” This sentence does not include any extreme or inflammatory language, yet it is immediately evident which side Rob represents and how he believes the court should rule.

I have also reviewed a terrific paper Rob wrote for a seminar on comparative criminal procedure. In it, Rob shows how rigidity in Canadian immigration enforcement regimes has tended to generate discretion in criminal prosecution, following a trajectory familiar to the United States. Canadian and American immigration systems have evolved to deny noncitizens convicted of criminal offenses any possible relief from deportation. The lack of any escape valve for sympathetic situations has pushed both criminal justice systems to soften, to reach outcomes that can enable sympathetic defendants to avoid the immigration regime’s harsh inflexibility.

Rob’s paper is elegant, well-researched, and unusually thorough for a seminar paper. It too demonstrates Rob’s strength as a writer – to-the-point, concise prose and a clear, easy-to-follow overall organization.

Rob’s strengths as a student and lawyer-to-be are clear. So too are his strengths as a person. Rob is kind, respectful, and good humored. He enjoys the evident affection of his classmates. Rob looks for ways to help others. He is simply a terrific guy.

May 30, 2023

Page 3

You would have a terrific term with Rob in your chambers. He is passionate about the law, exceptionally diligent, and dedicated. He has all the smarts necessary to produce truly top-flight work, and his judgment and work ethic are first-rate. I highly recommend Rob and hope you will give his application close scrutiny.

Sincerely,

A handwritten signature in black ink, appearing to read "David Marcus", with a long horizontal flourish extending to the right.

David Marcus

Robert Kory Carpenter

10401 Wilshire Boulevard, Apt. 401, Los Angeles, CA 90024
(650) 861-7405 | CarpenterR2024@lawnet.ucla.edu

WRITING SAMPLE

The attached writing sample is a brief I created for a UCLA Law Moot Court competition in spring 2023. The case involved the constitutionality of a hypothetical state statute that bars social media companies from censoring users' speech on their platforms. The problem is adapted from several cases currently pending before the U.S. Supreme Court, and competitors were not allowed to review authorities outside of a closed universe of caselaw. I represented respondents, the State of California and a journalist who had been removed from a social media platform called Squabble.

THE SUPREME COURT OF THE UNITED STATES

SPRING TERM, 2023

DOCKET NO. 2022-2023

Squabble, Inc.,

Petitioner,

v.

Arthur Calypso and Indigo Katz,

Respondents.

ON WRIT OF CERTIORARI TO THE

FOURTEENTH CIRCUIT

Brief for Respondent

R22

TABLE OF CONTENTS

Table of Contents	ii
Table of Authorities	iii
Constitutional Provisions and Rules	iii
Questions Presented	iv
Opinions Below	iv
Introduction	1
Statement of the Case	2
Argument	4
I. HB 3420 Regulates Conduct and does not Interfere with Squabble’s Expression	4
A. Squabble’s Content Moderation is not Inherently Expressive and does not Communicate any Cognizable Theme or Message	5
B. HB 3420 does not Compel Squabble to Speak Because User-Content Posted to the Platform is Clearly not Attributable to Squabble	7
II. HB 3420 is Content-Neutral and Serves a Legitimate Government Interest	9
A. HB 3420 does not Interfere with Squabble’s First Amendment Rights	9
B. HB 3420 Applies Uniformly to Squabble’s Content Moderation Without Consideration for the Ideological Views or Content that Squabble Censors	10
Conclusion	11

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Associated Press v. Nat'l Lab. Rels. Bd.</i> , 301 U.S. 103 (1937)	11
<i>Associated Press v. United States</i> , 326 U.S. 1 (1945)	11
<i>Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.</i> , 515 U.S. 557 (1995)	4, 5
<i>Miami Herald Pub. Co. v. Tornillo</i> , 418 U.S. 241 (1974)	4
<i>United States v. O'Brien</i> , 391 U.S. 367 (1968)	11
<i>Pac. Gas & Elec. Co. v. Pub. Utilities Comm'n of Cal.</i> , 475 U.S. 1 (1986)	7, 8
<i>Pittsburgh Press Co. v. Pittsburgh Comm'n on Hum. Rels.</i> , 413 U.S. 376 (1973)	9
<i>PruneYard Shopping Ctr. v. Robins</i> , 447 U.S. 74 (1980)	7, 8, 9, 10
<i>Rumsfeld v. F. for Acad. & Institutional Rts., Inc.</i> , 547 U.S. 47 (2006)	Passim
<i>Turner Broad. Sys., Inc. v. F.C.C.</i> , 512 U.S. 622 (1994).	Passim
<i>United States v. O'Brien</i> , 391 U.S. 367 (1968)	10

CONSTITUTIONAL PROVISIONS AND RULES

U.S. Const. Amend. I	Passim
47 U.S.C. § 230.....	2, 3, 8, 9

QUESTIONS PRESENTED

Whether HB 3420, which restricts a social media company's ability to censor content by California users and journalists, violates Squabble's First Amendment Right to freedom of speech?

OPINIONS BELOW

Calypso v. Squabble, Inc., 22 F.3d 123 (14th Cir. 2022)

INTRODUCTION

Petitioner Squabble, Inc. (the “Platform”) asks the Court to overturn a valid act of the Califfloida State Legislature aimed at reining in social media platforms that censor public speech in inconsistent and partisan ways. Squabble purports to be both a content curator and voiceless “interactive computer service provider.” The Platform is open to the public, allowing users from around the world to express themselves and communicate with friends. While ninety-nine percent of content uploaded to Squabble instantly appears on the Platform’s feeds, in some cases, Squabble blocks user-content containing political views that the Platform deems “false.”

More and more in today’s society, public debates take place in digital town squares controlled by powerful social media platforms. Although technology advancements have changed where and how people communicate, the Constitution continues to protect people’s ability to express themselves freely. This case centers on the new digital town square and asks if legislatures can create regulations that protect freedom of expression on publicly accessible social media platforms that are exacting increasing amounts of control over society. The answer is clear—yes, Califfloida statute HB 3420 is a conduct regulation that does not violate Squabble’s First Amendment rights. Rather than interfere with social media platforms’ speech, HB 3420 protects social media users’ ability to express themselves online. In addition, invalidating HB 3420 would not only contradict the Court’s precedents, but it would also give Squabble and other large social media platforms the greenlight to censor views they disfavor. Giving social media platforms such a power would chill political speech across society and hinder the United States’ ability to function as a democracy.

HB 3420 is constitutional because it regulates what large social media platforms like Squabble “must do” and “not what they must say.” *Rumsfeld v. F. for Acad. & Institutional Rts., Inc.*, 547 U.S. 47, 60 (2006) (“*FAIR*”). In addition, HB 3420 does not interfere with Squabble’s

ability to express itself by forcing it to respond to user content it does not agree with because it is clear that Squabble’s users do not represent the Platform. *See Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 655 (1994) (given cable providers clear role “as a conduit for broadcast signals, there appears little risk that cable viewers would assume that the broadcast stations carried on a cable system convey ideas or messages endorsed by the cable operator.”). Lastly, even if HB 3420 is found to affect speech, the statute is still constitutional because it is content-neutral and any effects on expression are incidental and necessary to promoting the important interest of fostering a vibrant public debate. *FAIR*, 547 U.S. at 67.

STATEMENT OF THE CASE

Petitioner Squabble, Inc. is a social media platform with 1.5 billion users. (R. at 3, 4). The Platform was founded in 2017 as a forum for liberal journalists. (*Id.*). As it grew it pivoted and Squabble now accommodates “voices from across the political spectrum.” (*Id.*).

To join Squabble, users must agree to the Platform’s Terms and Conditions, which state that the Platform may remove posts containing prohibited content such as “false information” and users who repeatedly post prohibited content. (R at 20). Users must also agree to a liability waiver stating that Squabble is an “interactive computer service provider, and thus not liable for censorship,” as set out in 47 U.S.C. § 230(c). (R at 4).

Squabble’s three-part content moderation process is unique among social media platforms as it censors “false information” and other content it prohibits before the content populates on users’ feeds. (R. at 4). While Squabble trumpets “truth” as its corporate motto, in practice ninety-nine percent of user content passes through the Platform’s filtering algorithms “untouched.” (R at 3, 4, & 20). While the vast majority of content posts to Squabble feeds immediately after preliminary filtering, the marginal number of posts flagged by the first algorithm are sent through a second more rigorous filtering algorithm. (R at 4). If the content is

also flagged as violative by the second algorithm, it is finally evaluated by Squabble’s human review board who determines if the content may be posted on the Platform. (R at 4). But Squabble’s content moderation algorithms are inconsistent and often allow prohibited content onto the site. (*Id.*). Squabble has acknowledged that its algorithms can be unreliable and noted that they particularly struggle with foreign language content. (*Id.*).

After a January 2021 newspaper story exposed Squabble’s censorship of conservative journalists, Califfloida passed HB 3420, a law that prohibits social media platforms of a certain size from censoring users based on viewpoint. (R at 6). However, the statute leaves platforms’ ability to respond through all other means. (*Id.*). HB 3420 applies to all social media sites that operate in Califfloida and either possess more than 100 million users or earn annual gross revenue in excess of \$100 million. (R at 20). Squabble easily meets the statute’s requirements as the Platform has 1.5 billion users and made \$32 billion in the most recent fiscal year. (R at 4).

This litigation arises from Squabble’s censorship of conservative journalist Arthur Calypso. On October 14, 2021, Calypso uploaded content to Squabble that the Platform’s algorithms flagged as “false.” (R at 7). When Calypso learned that the content had been flagged and withheld from his followers’ news feeds, he posted a separate statement complaining that the Platform was censoring him and had a misguided understanding of what “truth” means. (R at 7). Calypso’s follow-up statement immediately posted to the Platform and Squabble used its own corporate account (username “Squabble”) to respond, explaining that Calypso was initially censored because he attempted to post “false information.” (R at 7). Upset by the arbitrary explanation and Squabble’s attack on his journalistic integrity, Calypso then responded with incendiary language. (R at 7). Squabble then banned Calypso for repeatedly posting prohibited content in the form of the initial censored post and subsequent use of inappropriate language.

In early 2022, Calypso sued Squabble for violating HB 3420 in Califfloida state court. (R at 7). Based on the significant threat social media platform censorship poses to the smooth functioning of democratic society, Califfloida Attorney General Indigo Katz joined the litigation as a co-respondent. (R at 7). Squabble then removed the case to federal court and countersued, claiming that HB 3420 violates its First Amendment rights by forcing it to host content it believes is “false.” (R at 7-8). The district court ruled for Squabble but the circuit court reversed, holding that Squabble does not produce expressive speech and thus HB 3420 does not compel the Platform to speak in violation of its First Amendment rights. (R at 11-12). Squabble now appeals to the U.S. Supreme Court.

ARGUMENT

I. HB 3420 Regulates Conduct and does not Interfere with Squabble’s Expression

The First Amendment guarantees speakers the ability to choose the content of their own message or to not speak at all. *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.*, 515 U.S. 557, 573 (1995). The government has the ability to force a person to accommodate third-party speech and the Court has only limited this ability when hosting another person’s speech would interfere with the host’s message. *FAIR*, 547 U.S. at 63. Third-party speech accommodation laws interfere with a host’s expression when they: (1) alter the message conveyed by the host’s inherently expressive conduct; or (2) burden the host’s ability to communicate its own desired message. *Hurley*, 515 U.S. at 574; *Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241, 256 (1974). On the other hand, the Court has upheld laws regulating non-expressive conduct such as passively transmitting others’ content because it does not interfere with any cognizable expression. *Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622 (1994).

A. Squabble’s Content Moderation is not Inherently Expressive and does not Communicate any Cognizable Theme or Message

In addition to verbal and written expression, the First Amendment also protects conduct that is inherently expressive such that a reasonable person would recognize that the conduct conveys a coherent message. *See e.g., Hurley*, 515 U.S. at 568-69 (holding that a parade was expressive conduct because each marching unit could be perceived as representing the parade organizer’s judgement of what themes deserved celebration). But conduct is not speech just because a person acts with intent to convey a message. *FAIR*, 547 U.S. at 65-66. Instead, the First Amendment only protects conduct that is inherently expressive and conveys an idea that is “overwhelmingly apparent.” *Id.* at 66 (quoting *Texas v. Johnson*, 491 U.S. 397, 406 (1989)).

In *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.* (“*FAIR*”), the Court held that a statute requiring law schools to accommodate military recruiting events did not interfere with the schools’ expression because hosting the recruiters did not convey a cognizable message. 547 U.S. at 65-66. The law school plaintiffs argued that the regulation interfered with their speech because they were denying military recruiters access in order to protest the government’s homophobic “don’t ask, don’t tell” policy. *Id.* at 52. The Court held the law schools’ practice of excluding military recruiters from their grounds and forcing interviews to nearby undergraduate campuses was not inherently expressive. Specifically, no observer of the law schools’ conduct would be able to discern whether the interviews were happening off-campus because a school disagreed with government policy or simply because all of the law school’s meeting rooms were occupied. *Id.* at 66. Furthermore, the Court found that the schools’ statement explaining their opposition to the policy was separate from the conduct regulated by the law. *Id.* at 64-65. Thus, the statute only regulated non-expressive conduct—hosting military interviews—and did not interfere with the law schools’ ability to speak their desired message. *Id.*

Far from the inherently expressive nature of a parade or flag burning, Squabble’s content moderation practices resemble the non-expressive conduct at issue in *FAIR*. Squabble’s content moderation does not prioritize any type of content and instead allows the vast-majority of content to post unencumbered. Additionally, content that violates Squabble’s rules frequently appears on users’ feeds because the Platform’s content moderation algorithms are unreliable and often fail to filter prohibited content. (R at 4). Thus, it is impossible to decipher if a post made it onto Squabble’s feeds because Squabble verified its “truth” or instead because the Platform’s algorithms malfunctioned and mistakenly allowed prohibited content onto the site. To this end, the fact that Squabble had to explain to Calypso why his post was removed shows how the Platform’s content moderation is not independently expressive. *See id.* at 66 (“that such explanatory speech is necessary is strong evidence that the conduct at issue here is not so inherently expressive that it warrants protection.”).

In addition, the fact that Squabble exercises minimal editorial discretion while moderating content further emphasizes that the Platform’s content moderation is not expressive. In *Turner Broadcasting System, Inc. v. F.C.C.*, this Court held that passively transmitting others’ speech without contributing editorial judgment does not constitute expression protected by the First Amendment. 512 U.S. at 655. The *Turner* Court upheld a law requiring cable providers to carry local broadcast channels where the providers operated as “conduit[s] for the speech of others” by transmitting TV programming “on a continuous and unedited basis.” *Id.* at 629. Like the cable providers in *Turner*, Squabble largely transmits others’ content without making any contributions of its own. Ninety-nine percent of user-content appears on the Platform immediately after the authoring user presses send and without edits. (R at 4). The difficulty of discerning a coherent message from Squabble’s infrequent exercise of editorial discretion is exacerbated by

the massive amount of content posted to the Platform everyday by Squabble’s 1.5 billion users. As Squabble exercises minimal influence over what users post to the Platform, any editorial discretion exercised by the Platform is drowned out by the sheer volume of user content that does not relate to any particular theme or message. Accordingly, since Squabble’s content moderation does not express any coherent or discernable message it does not constitute speech protected by the First Amendment.

B. HB 3420 does not Compel Squabble to Speak Because User-Content Posted to the Platform is Clearly not Attributable to Squabble

According to *PruneYard Shopping Center v. Robins*, a regulation requiring a person to host another’s speech only violates the First Amendment when the accommodated speech is likely to be attributed to the host. 447 U.S. 74, 87 (1980). The threat of attribution to the host constitutes a speech compulsion because it puts pressure on the host to speak in order to dispel the appearance that it agrees with a position that it actually opposes. *Pac. Gas & Elec. Co. v. Pub. Utilities Comm’n of Cal.*, 475 U.S. 1, 16 (1986) (“*PG&E*”).

In *PruneYard*, a group of California high-school students sued the owner of a shopping mall for violating their right to free expression by removing them from the property while they were petitioning against a recent United Nations resolution. *Id.* at 77. In holding for the students, the Court reasoned that since the mall “was open to the public” and could easily disclaim visitors’ expression by posting signs, it was unlikely that the students’ views would be attributed to the mall. *Id.* at 87-88. Accordingly, the state regulation requiring malls to accommodate reasonable visitor expression did not force the mall to clarify that it disagreed with the views expressed by the students because the public nature of the mall made it obvious that visitors do not represent or speak for the mall. *Id.* at 85-88. *But see PG&E*, 475 U.S. at 1, 15-17 (holding that a regulation requiring a utility company to carry an adverse organization’s newsletter in the

excess space of its billing envelopes effectively compelled the utility to speak in order to respond to hostile messages it disagreed with).

Like the mall in *PruneYard*, Squabble is open to the public and invites billions of people to come to the Platform to express themselves. The Platform is not limited to the personal use of Squabble but instead invites “voices from across the political spectrum.” (R. at 3). Squabble even refers to itself as a “public space.” (R at 5). Thus, Squabble’s publicly accessible nature and the multiplicity of diverse views expressed by its users make it unlikely that a user’s speech will be attributed to Squabble. Further, Squabble’s Terms and Conditions make it clear that anyone can post to the Platform so long as they agree to the Platform’s terms. (R at 20). Just as the students’ petitioning for signatures in *PruneYard* could not reasonably be credited as spokespersons for the mall’s views, Squabble user-content clearly does not represent Squabble. Thus, HB 3420’s limitation on Squabble’s content censorship does not burden Squabble with the need to clarify that it disagrees with its users because user-content clearly does not represent Squabble.

In addition, Squabble’s efforts to distinguish users’ speech from its own further emphasizes that users do not speak for the Platform. Squabble can easily disclaim user expression posted on its site and, in fact, Squabble already disclaims responsibility for user-content in section eight of its Terms and Conditions. (R at 7). Specifically, Squabble’s Terms and Conditions state that the Platform is an “interactive computer service provider” (“ICSP”) as defined to 47 U.S.C.A. § 230 and therefore “is not liable for censorship of content.” (R at 20). Section 230 specifically states that ICSPs are not considered the publisher or speaker of any content posted by others on an online platform for purposes of legal liability. 47 U.S.C.A. § 230(c)(1). In addition to informing every user that it disclaims their speech through its reference to section 230, Squabble further separates its views from its users’ by posting messages on the

Platform via its own corporate account. Like all accounts on the Platform, Squabble’s account and its posts are clearly labeled with its username, “Squabble.” (R at 7). Accordingly, HB 3420’s limits on user censorship do not compel Squabble to communicate the speech of others because the Platform’s disclaimer and labeled corporate account, make clear that user speech is distinct from the Platform’s own expression. *See Turner*, 512 U.S. at 657 (reasoning that local broadcast channels’ disclaimers that its TV shows do not represent the views of cable providers weighed for finding that channel must-carry regulations did not compel cable providers to speak).

II. HB 3420 is Content-Neutral and Serves a Legitimate Government Interest

Even if HB 3420 is found to regulate Squabble’s speech, the statute is still lawful because it is content-neutral and easily satisfies intermediate scrutiny. While the First Amendment provides powerful protections over the right of free expression, the right is not limitless. *See e.g., Pittsburgh Press Co. v. Pittsburgh Comm’n on Hum. Rels.*, 413 U.S. 376, 389 (1973) (upholding ordinance that prohibited a newspaper from printing job opening advertisements that discriminated against applicants based on gender). Where a challenging party fails to establish that a regulation interferes with their speech, expression, and other constitutional rights, the regulation is constitutional so long as it rationally serves a legitimate government interest. *PruneYard*, 447 U.S. at 84-88 (applying lower level constitutional scrutiny to uphold a regulation that did not invade plaintiff’s First Amendment rights). On the other hand, content-neutral regulations that impose “incidental” burdens on speech are lawful if the burden is “no greater than is essential,” to promote “a substantial government interest that would be achieved less effectively absent the regulation.” *FAIR*, 547 U.S. at 67 (internal citations omitted).

A. HB 3420 does not Interfere with Squabble’s First Amendment Rights

Where a regulation does not interfere with a party’s freedom of expression, rational basis review applies. In *PruneYard*, the Court applied lower level constitutional scrutiny to uphold a

regulation requiring a mall owner to host visitors' expression where the owner's First Amendment Rights of expression were not threatened and the law at issue furthered a legitimate government interest. *PruneYard*, 447 U.S. at 85. Like the mall in *PruneYard*, Squabble has not established that HB 3420 violates its freedom of expression by interfering with its ability to speak. Thus, as in *PruneYard*, heightened First Amendment scrutiny has not been triggered in this case. *Id.* at 88.

B. HB 3420 Applies Uniformly to Squabble's Content Moderation Practices Without Consideration for the Ideological Views or Content that Squabble Censors

Regulations are content-neutral when they "confer benefits or impose burdens on speech without reference to the ideas or views expressed." *Turner*, 512 U.S. at 643. And a content-neutral regulation is lawful if it promotes a "substantial governmental interest" and its incidental affect on "First Amendment freedoms is no greater than is essential." *United States v. O'Brien*, 391 U.S. 367, 377 (1968). In *Turner*, a rule requiring cable providers to carry certain broadcast-channels was content-neutral because it regulated based on channels' locations and technical attributes rather than the TV programming shown or views expressed. 512 U.S. at 643-44 & 655.

HB 3420 is content-neutral because it applies equally to all user content regardless of the of the author's identity or the message conveyed. Further, the statute does not favor or burden any user or viewpoint but instead ensures all users have access to the modern town square regardless of their perspective. Accordingly, as HB 3420 serves the legitimate purpose of promoting public debate and discussion, the regulation is constitutional. *See id.* at 663 (holding that facilitating discussions involving varied political viewpoints, is a "government purpose of the highest order.").

As the Court noted in *Turner*, the First Amendment "does not disable the government from taking steps to ensure that private interests not restrict, through physical control of a critical

pathway of communication, the free flow of information and ideas.” *Id.* at 657. Rather than limit social media platforms’ freedom of speech, HB 3420 protects the general public’s First Amendment freedoms from the social media platforms. Thus, HB 3420 is in line with regulations the Court has upheld because it does not impede speech itself but instead prevents private parties from doing so. *See e.g., id.* (upholding law requiring large cable-providers to carry local channels); *Associated Press v. Nat’l Lab. Rels. Bd.*, 301 U.S. 103, 132-33 (1937) (upholding order prohibiting newspaper from firing an employee for union organizing); *Associated Press v. United States*, 326 U.S. 1, 20 (1945) (upholding order enjoining newspaper conglomerate’s anti-competitive behavior).

CONCLUSION

For the foregoing reasons, this Court should affirm the judgment of the Court of Appeals and hold that California HB 3420 does not compel speech or interfere with Squabble’s ability to communicate its desired message.

Respectfully Submitted,

/s/ R22

R22, Attorney for Respondent

Applicant Details

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 Last Name **Casanas**
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BA/BS From **Gonzaga University**
 Date of BA/BS **May 2018**
 JD/LLB From **Georgetown University Law Center**
https://www.nalplawschools.org/employer_profile?FormID=961
 Date of JD/LLB **June 5, 2024**
 Class Rank **School does not rank**
 Law Review/Journal **Yes**
 Journal(s) **The Georgetown University Law Journal**
 Moot Court Experience **No**

Bar Admission**Prior Judicial Experience**

Judicial Internships/
Externships **Yes**
Post-graduate Judicial
Law Clerk **No**

Specialized Work Experience

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This applicant has certified that all data entered in this profile and any application documents are true and correct.

Alexis Casanas

1600 S Eads St Apt 418N

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June 27, 2023

The Honorable Jamar K. Walker

United States District Court, Eastern District of Virginia

Dear Judge Walker,

I am a second-year student at Georgetown University Law Center and an executive online editor of the *Georgetown Law Journal*. I interned with trial-level judges at both the United States District Court for the District of Maryland and the National Labor Relations Board. During my third year, I will also be a member of the Appellate Litigation Clinic at Georgetown. I am writing to apply for a 2024 term clerkship in your chambers. I have no preference between the one- or two-year term clerkship.

Despite the stress of transitioning from male-to-female during my first year of law school, I succeeded academically, earning a place on the Dean's List, achieving the highest grade in my Communication Design and the Law class, and securing a position on the *Georgetown Law Journal*. As a transgender woman, I can also bring that perspective to chambers at a time when transgender issues are increasingly coming before courts. I also have full-time work experience from before law school; this clerkship would not be my first real job.

I have enclosed my resume, law school transcript, and writing sample. Letters of recommendation from Heidi Li Feldman, professor of law at Georgetown University Law Center; Judge Brian D. Gee, Administrative Law Judge at the National Labor Relations Board; and Judge Gerald M. Etchingham, Associate Chief Administrative Law Judge at the National Labor Relations Board are attached.

Thank you for your consideration. If you require any further information, please contact me by email at arc90@georgetown.edu or by telephone at (206) 369-8052.

Sincerely,

Alexis Casanas

ALEXIS RENEE CASANAS

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EDUCATION**GEORGETOWN UNIVERSITY LAW CENTER***Juris Doctor*

GPA: 3.70

Honors: Public Interest Fellow, Dean's List (2021-22), CALI Award (Communication Design & Law)

Activities: The Georgetown Law Journal (Executive Online Editor, Volume 112), Appellate Litigation Clinic
American Constitution Society (1L Representative), OutLaw (1L Representative), National Lawyers Guild**Washington, DC**

Expected May 2024

GEORGE WASHINGTON UNIVERSITY

Master of Arts, in Middle East Studies

Activities: International Affairs Review (Staff Writer)

- Completed 27 hours of coursework

Washington, DC

August 2018 - Oct 2019

GONZAGA UNIVERSITYBachelor of Arts, *cum laude*, in International Relations

Honors: President's List or Dean's List every semester

Activities: Model United Nations (Parliamentarian), Improvisational Theater Troupe

Spokane, WA

May 2018

EXPERIENCE**AMERICAN FEDERATION OF TEACHERS***Peggy Browning Fellow*

- Researched and drafted memoranda on topics including AI regulations in education, federal sector labor organizing, and novel constitutional arguments for transgender rights
- Closely tracked and timely summarized Supreme Court orders and opinions

Washington, DC

May – August 2023

NATIONAL LABOR RELATIONS BOARD, DIVISION OF JUDGES*Student Volunteer*

- Analyzed changes in NLRB remedies to help prepare for ALJ Conference
- Drafted memoranda and portions of ALJ decisions

Washington, DC

January – April 2023

HON. THEODORE D. CHUANG*Judicial Intern*

- Drafted a memorandum opinion and two memorandum orders
- Wrote memoranda on several issues, including ERISA and Title VII
- Observed several proceedings, including a full criminal trial

Greenbelt, MD

June – July 2022

SUTTELL & HAMMER, P.S.*Legal Assistant*

- Provided initial review of service of process.
- Managed process servers, including deciding whether and where to continue unsuccessful service efforts.
- Ensured complete and accurate data entry into legal management software from various documents.

Bellevue, WA

Nov. 2019 – Apr. 2021

INTERESTS

- International Travel – Jordan 2019 & 2016, Hungary & Czech Republic 2016, Italy 2014.
- Puzzles – Especially word puzzles, such as the New York Times crossword or Wordle
- Chess – Poorly, but enthusiastically.

This is not an official transcript. Courses which are in progress may also be included on this transcript.

Record of: Alex Rene Casanas
GUID: 804285144

Course Level: Juris Doctor

Entering Program:

Georgetown University Law Center
Juris Doctor
Major: Law

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Fall 2021							
LAWJ	001	92	Civil Procedure	4.00	A-	14.68	
			David Hyman				
LAWJ	002	92	Contracts	4.00	B+	13.32	
			Girardeau Spann				
LAWJ	005	22	Legal Practice: Writing and Analysis	2.00	IP	0.00	
			Sara Creighton				
LAWJ	008	23	Torts	4.00	A-	14.68	
			Glen Nager				

	EHrs	QHrs	QPts	GPA
Current	12.00	12.00	42.68	3.56
Cumulative	12.00	12.00	42.68	3.56

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Spring 2022							
LAWJ	003	21	Criminal Justice	4.00	B+	13.32	
			Julie O'Sullivan				
LAWJ	004	21	Constitutional Law I: The Federal System	3.00	A	12.00	
			Cliff Sloan				
LAWJ	005	22	Legal Practice: Writing and Analysis	4.00	B+	13.32	
			Sara Creighton				
LAWJ	007	92	Property	4.00	A	16.00	
			Audrey McFarlane				
LAWJ	1349	50	Administrative Law	3.00	A-	11.01	
LAWJ	611	07	Communication Design & Law: Re-Designing Legal Information	1.00	P	0.00	

Jacklynn Pham
Dean's List 2021-2022

	EHrs	QHrs	QPts	GPA
Current	19.00	18.00	65.65	3.65
Annual	31.00	30.00	108.33	3.61
Cumulative	31.00	30.00	108.33	3.61

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Fall 2022							
LAWJ	1338	05	Think Like a Lawyer: Elements for American Legal Analysis Seminar	3.00	B+	9.99	
LAWJ	1495	05	The Role of the State Attorney General	3.00	A	12.00	
LAWJ	165	02	Evidence	4.00	A	16.00	
LAWJ	264	05	Labor Law: Union Organizing, Collective Bargaining, and Unfair Labor Practices	3.00	A-	11.01	
LAWJ	361	02	Professional Responsibility	2.00	B	6.00	

	EHrs	QHrs	QPts	GPA
Current	15.00	15.00	55.00	3.67
Cumulative	46.00	45.00	163.33	3.63

-----Continued on Next Column-----

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Spring 2023							
In Progress:							
LAWJ	1491	14	Externship I Seminar (J.D. Externship Program)	4.00	In Progress		
LAWJ	191	08	Worker Rights in the Global Economy Seminar	2.00	In Progress		
LAWJ	215	08	Constitutional Law II: Individual Rights and Liberties	4.00	In Progress		
LAWJ	263	05	Employment Law	3.00	In Progress		
Transcript Totals							
				EHrs	QHrs	QPts	GPA
Current				15.00	15.00	55.00	3.67
Annual				46.00	45.00	163.33	3.63
Cumulative				46.00	45.00	163.33	3.63
End of Juris Doctor Record							



Gonzaga University
Spokane, WA 99258

Student No:71599204

Date of Birth: 04-AUG

Date Issued:15-OCT-2021 **OFFICIAL**

Record of : Alexander R Casanas

Current Name:Alexander R Casanas

Issued To : ALEXANDER R CASANAS

Course Level : Undergraduate

Degree Information:

Degrees Awarded Bachelor of Arts 11-MAY-2018

Primary Degree**Major:**

INST-International Relations

Minor:

History

Theatre Arts

Inst. Honors:

Cum Laude

Subj	No.	C	Title	Cred	Grade	Pts	R
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INSTITUTION CREDIT:

Good Standing

Spring 2015

ARAB	102	M	Elementary Arabic II	4.00	A-	14.80	
HIST	101	M	Survey of Western Civilization I	3.00	A	12.00	
HIST	112	M	World Civilization 1500-Pres	3.00	A-	11.10	
INST	301	M	Survey of Intnl Studies	3.00	B+	9.90	
INST	302	M	Model UN	3.00	A	12.00	I
PHIL	101	M	Critical Thinking	2.00	B+	6.60	
RELI	110	M	The Hebrew Bible	3.00	A	12.00	
THEA	261	M	Production Lab	1.00	A	4.00	

Earned Hrs	GPA-Hrs	QPts	GPA
22.00	22.00	82.40	3.74

President's List

Good Standing

Summer 2015

CHEM	101	M	General Chemistry	3.00	A	12.00	
CHEM	101L	M	General Chemistry Lab I	1.00	A	4.00	
MATH	103	M	Excursions In Mathematics	3.00	A	12.00	

Earned Hrs	GPA-Hrs	QPts	GPA
7.00	7.00	28.00	4.00

Good Standing

Fall 2015

ARAB	201	M	Intermediate Arabic I	4.00	A	16.00	
ENGL	203	M	Studies in Drama	3.00	A-	11.10	
PHIL	201	M	Philosophy of Human Nature	3.00	B+	9.90	
POLS	372	M	Comp Middle East Politics	3.00	B	9.00	
THEA	134	M	Costume Construction	3.00	A	12.00	

Earned Hrs	GPA-Hrs	QPts	GPA
16.00	16.00	58.00	3.62

Dean's List

Good Standing

**1887
Spring 2016**

ARAB	202	M	Intermediate Arabic II	4.00	A-	14.80	
HIST	358	M	African-American History	3.00	A-	11.10	
POLS	373	M	Arab-Israeli Conflict	3.00	A-	11.10	
THEA	100	M	Introduction to Theatre Arts	3.00	A	12.00	
THEA	111	M	Acting I	4.00	A	16.00	

Earned Hrs	GPA-Hrs	QPts	GPA
17.00	17.00	65.00	3.82

President's List

Good Standing

Fall 2016

courses taken through University of Jordan

Subj	No.	C	Title	Cred	Grade	Pts	R
------	-----	---	-------	------	-------	-----	---

TRANSFER CREDIT ACCEPTED BY THE INSTITUTION:

09/12-12/12 EDMONDS COMMUNITY COLLEGE

TRAN 102 Business School electives 1.32 T

Earned Hrs	GPA-Hrs	QPts	GPA
1.32	0.00	0.00	0.00

08/14 AP CREDIT

ENGL	102		Intro to Literature	3.00	T		
ENGL	190		Directed Study	3.00	T		
MATH	121		Introductory Statistics	3.00	T		
POLS	101		American Politics	3.00	T		

Earned Hrs	GPA-Hrs	QPts	GPA
12.00	0.00	0.00	0.00

Subj	No.	C	Title	Cred	Grade	Pts	R
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INSTITUTION CREDIT:**Fall 2014**

ARAB	101	M	Elementary Arabic I	4.00	A	16.00	
COMM	100	M	Intro to Speech Communication	2.00	A	8.00	
EDPE	101	M	Tai Chi	1.00	A	4.00	
ENGL	101	M	English Composition	3.00	B	9.00	
POLS	104	M	International Politics	3.00	A	12.00	
THEA	483	M	Interdisciplinary Arts	3.00	A-	11.10	

Earned Hrs	GPA-Hrs	QPts	GPA
16.00	16.00	60.10	3.75

President's List

OFFC

Page 1 of 2

GONZAGA UNIVERSITY
ACADEMIC TRANSCRIPT
OFFICE OF THE UNIVERSITY REGISTRAR
SPOKANE, WASHINGTON 99258-0083

Jolanta Weber
Jolanta Weber, University Registrar



Gonzaga University
Spokane, WA 99258

Student No: 71599204

Date of Birth: 04-AUG

Date Issued: 15-OCT-2021 **OFFICIAL**

Subj	No.	C	Title	Cred	Grade	Pts	R
------	-----	---	-------	------	-------	-----	---

INSTITUTION CREDIT:

INST	302	SPS	Issues Jordanian Workplace	3.00	A	12.00	I
INST	303	SPS	United States in Arab World	3.00	A-	11.10	
MDLA	190	SPS	Intensiv Beg Jordanian Dialect	4.00	B+	13.20	
MDLA	290	SPS	Inten Intermed High MSA Arabic	6.00	A	24.00	

Earned Hrs	GPA-Hrs	QPts	GPA
16.00	16.00	60.30	3.76

Dean's List
Good Standing

Spring 2017

HIST	380	M	Colonial Latin America	3.00	A	12.00	
INST	410	M	Perspectives on Global Issues	3.00	A-	11.10	
JPNE	102	M	Elementary Japanese II	4.00	B	12.00	
PHIL	301	M	Ethics	3.00	B	9.00	
RELI	221	M	African Catholicism	3.00	A	12.00	

Earned Hrs	GPA-Hrs	QPts	GPA
16.00	16.00	56.10	3.50

Dean's List
Good Standing

Fall 2017

ECON	201	M	Microeconomics	3.00	B+	9.90	
ECON	202	M	Macroeconomics	3.00	B	9.00	
HIST	275	M	Japan Past and Present	3.00	A	12.00	
RELI	354	M	Islamic Civilization	3.00	B+	9.90	
THEA	200	M	Theatre History	3.00	B	9.00	
THEA	253	M	Directing I	3.00	C-	5.10	

Earned Hrs	GPA-Hrs	QPts	GPA
18.00	18.00	54.90	3.05

Good Standing

Spring 2018

INST	345	M	International Law	3.00	A	12.00	
INST	499	M	Senior Capstone	1.00	B-	2.70	
PHIL	491	M	Philosophy and Global Poverty	3.00	A	12.00	
THEA	237	M	Costume and Fashion Design	3.00	B-	8.10	
VART	101	M	Drawing I	3.00	B	9.00	

Earned Hrs	GPA-Hrs	QPts	GPA
13.00	13.00	43.80	3.36

Good Standing

Transcript Totals	Earned Hrs	GPA Hrs	Points	GPA
TOTAL INSTITUTION	141.00	141.00	508.60	3.60
TOTAL TRANSFER	13.32	0.00	0.00	0.00
OVERALL	154.32	141.00	508.60	3.60

-----END OF TRANSCRIPT-----

OFFC

Page 2 of 2

GONZAGA UNIVERSITY
ACADEMIC TRANSCRIPT
OFFICE OF THE UNIVERSITY REGISTRAR
SPOKANE, WASHINGTON 99258-0083

Jolanta Weber
Jolanta Weber, University Registrar



United States Government

NATIONAL LABOR RELATIONS BOARD

**Division of Judges – San Francisco Branch
1301 Clay St. – Suite 1550-S
Ron Dellums Federal Building
Oakland, CA 94612
Phone (415) 356-5255 Fax (415) 356-5254
April 28, 2023**

Re: Alexis Casanas

To Whom It May Concern:

It is a pleasure to recommend Alexis Casanas to you. Alexis worked in our office as a voluntary law clerk during her winter semester researching various legal issues and preparing memoranda for our judges. Her work was uniformly above the norm.

The judges at the NLRB San Francisco Division of Judges thoroughly enjoyed working with Ms. Casanas. Ms. Casanas maintained steady and reliable work habits to our work environment. She prepared a memo for me summarizing the facts in a 3-day unfair labor practice hearing with my guidance and her review of transcripts, exhibits and an audio-tape. She also exhibited a good attitude and I enjoyed getting to know her.

Once Ms. Casanas drafted several versions of a statement of facts, we continued to work on a decision of mine where Ms. Casanas created a legal analysis with the established statement of facts after I added my credibility determinations for each of several witnesses. With this 3-month assignment, Ms. Casanas worked diligently and prepared well-written drafts by the given deadlines. Ms. Casanas works independently with few questions. She clearly understands and enjoys labor law. By meeting her deadlines, it is evident that Ms. Casanas knows how to manage a variety of writing assignments with varying deadlines.

I believe Ms. Casanas would be a welcome, productive addition to your office and I would be more than happy to discuss her qualifications further. Do not hesitate to give me a call at my direct number of 707-861-9953.

Sincerely,

Gerald M. Etchingham

Gerald M. Etchingham, Associate Chief
Administrative Law Judge



United States Government
NATIONAL LABOR RELATIONS BOARD
Division of Judges – San Francisco Office
1301 Clay Street – Suite 1550-S
Oakland, CA 94612

Telephone: (628) 221-8820
Facsimile: (415) 356-5254
www.nlr.gov

May 2, 2023

Re: Recommendation for Alexis Casanas

Dear Hiring Coordinator:

I am delighted to give this recommendation for Alexis Casanas, a second-year law student at Georgetown University Law Center who served as our legal intern. As you will see from her application materials, she is an exceptionally bright person with strong research, analytical, writing, and verbal skills. Ms. Casanas also has a reasoned and balanced temperament. I am confident that she will excel as a judicial law clerk.

I am an Administrative Law Judge for the National Labor Relations Board. As the Spring semester intern for the Division of Judges, Ms. Casanas provided me with research assistance as I prepared to speak at the March 2023 Judges' Conference. More specifically, I asked her to research issues and provide written analysis to enable me to discuss the Board's adoption of a new system of essentially consequential damages pursuant to its landmark decision in *Thryv*, 372 NLRB No. 22 (12/11/22).

In *Thryv*, the Board departed from its decades-old system of largely compensatory damages and adopted an expanded framework of make-whole relief. Because this was such a marked departure from past Board law, we had our work cut out for us. I first assigned Ms. Casanas to learn about the Board's traditional remedial system by reading sections of the NLRA along with landmark Supreme Court and Board decisions, such as *NLRB v. Rutter-Rex Mfg.* and *Republic Steel*. Second, I assigned her to find for me sources—including Board decisions, guidance memoranda, law review articles, and Supreme Court cases—which advocated that the Board adopt remedies going beyond its traditional compensatory damages. Third, I asked Ms. Casanas to find me EEOC caselaw that would illustrate how that agency has utilized its statutory authority to award consequential damages. Finally, I tasked her with anticipating what types of evidence would be necessary in future Board cases to warrant consequential remedies, such as the reimbursement of credit card late fees, attorney's fees related to credit collection actions against an unlawfully discharged worker, and relocation costs incurred by a worker due to their need to search for interim employment. Each week, I instructed Ms. Casanas to

draft a memo containing legal analysis and links covering various remedial topics. We would spend time discussing her findings and bouncing ideas off each other.

Based on her work for me and our weekly Zoom discussions, I developed several favorable observations about Ms. Casanas. Clearly, she is very bright. The NLRA is different from a lot of Federal statutes, and Ms. Casanas was able to understand and navigate the Act immediately. Moreover, her thought process is mature and reasoned—she didn't just parrot her research or take reactive positions; she was able to internalize her findings and present balanced points of view. Not many law students are able to do this so effectively. I appreciated how hardworking and motivated she was. Remedial relief is not a subject that a lot of people find interesting, but Ms. Casanas took to it quickly. Additionally, I do not provide interns with a lot of handholding. I do this by design, so that I can see how well they figure things out for themselves. Ms. Casanas did that. She is articulate and able to clearly express her ideas, even on subtle legal concepts. Finally, Ms. Casanas is personable and I enjoyed our weekly conversations very much. She is pleasant, funny, and interesting.

By the time that I gave my presentation, I was fully prepared—thanks to the research that Ms. Casanas provided me and our weekly discussions of those issues. I was very pleased with her work. For this reason, I strongly recommend that you select her a judicial law clerk.

If you have any questions, please feel free to call me directly at (202) 903-9269.

Very truly yours,

/s/ *Brian D. Gee*

Brian D. Gee

Administrative Law Judge

Georgetown Law
600 New Jersey Avenue, NW
Washington, DC 20001

May 18, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I strongly and enthusiastically recommend Alexis Casanas for a judicial clerkship. Alexis is one of the best and most promising law students I have taught in my roughly thirty years of law teaching. She easily places in the top ten percent.

Alexis has taken two, very different courses I teach, and she performed impressively in both of them. One is a course entitled "Role of the State Attorney General" and the other is a seminar entitled, "Think Like a Lawyer: Basic Elements of American Legal Analysis." The state attorney general course is focused on the powers and duties of state attorneys general; the relationship between their offices and other parts of state government; cross-state attorney general efforts; and specific substantive areas, such as consumer protection, antitrust, and environmental protection. The seminar intensively examines legal conceptions of liberty and tyranny; sovereignty; trade, labor, and commerce; and enfranchisement and democracy. Most of the readings are primary source documents dating from the 1600s (including English and colonial documents) through the antebellum period in the United States.

As you can imagine, the skills and capacities required to do well in each of these courses are different and varied. Alexis stood out in both. She read a very wide range of materials with care and insight, and she was always able to synthesize her understanding and bring it to bear usefully on class discussions and exercises. In brief writing assignments in both classes, in her final examination for the state attorney general class, and in her seminar paper, Alexis fully showcased her outstanding writing abilities. She writes with exceptional clarity and superb organization. Her seminar paper was not quite as deep as those of some other class members, and so, in a very competitive group, Alexis earned a B+ rather than an A- or A, but this should in no way count against her as a clerkship candidate. The paper was a solid piece of work. Overall, in her work with me, Alexis has powerfully demonstrated that she is first-rate legal thinker and communicator.

Whether writing or speaking, Alexis displays her keen intelligence and thoughtfulness. She is not shy about sharing her ideas, but she never simply spouts off or rambles. She enriches all the conversations she joins; I always look forward to hearing what she has to say. Moreover, her classmates always seemed equally interested, a mark of the good relationships she has with them. I am confident that she will get along with you and other judges, members of support staff, other clerks, and attorneys before the court. She is gracious, poised, and mature. You will enjoy working with her.

I recommend Alexis Casanas most highly and without reservation. Please do not hesitate to contact me with any questions you may have.

Yours truly,

Heidi Li Feldman, J.D., Ph.D.
Professor of Law
Associate Professor of Philosophy by courtesy
feldmanh@law.georgetown.edu
202-279-0131

Heidi Feldman - feldman@law.georgetown.edu - 202-662-9396

Casanas Writing Sample

This memorandum was written as part of my Summer 2022 internship with Judge Chuang at the United States District Court for the District of Maryland. It is used with his permission. It has been lightly edited to remove identifying information for the case and parties.

MEMORANDUM

TO: Clerk
FROM: Alexis Renee Casanas
DATE: June 28, 2022
RE: XX-XXXXX Plaintiff v. Defendant, Motion to Remand

QUESTION PRESENTED

Whether 28 U.S.C. § 1441(b)(2) allows removal that would otherwise violate the forum-defendant rule when the forum-defendant has not yet been served.

BRIEF ANSWER

Likely no. Although § 1441(b)(2)'s plain text requires proper joinder and service, a literal application of the text to these circumstances contravenes clear congressional intent. Absent a federal question, remanding to state court is proper.

BACKGROUND

In December 2021, the Plaintiffs filed a derivative action against the Defendants in Maryland Circuit Court. Other plaintiffs had filed three cases based on substantially similar facts against the Defendants in the United States District Court for the District of Maryland. The Plaintiffs were the only plaintiffs to file in state court. The Plaintiffs are citizens of [STATE], and several defendants are citizens of Maryland. The Maryland Circuit Court did not issue summonses immediately because of holiday closures, a snowstorm, and the COVID-19 Pandemic. In January 2022, prior to service on any defendant, the Defendants removed the case to the District of Maryland.

The Plaintiffs argue no diversity jurisdiction exists because the defendants include Maryland citizens and citizens of a state may not remove a case from that state's courts on diversity grounds. The Defendants counter that the removal statute's plain text allows a forum-defendant to remove to federal court if removal precedes service.

DISCUSSION

Generally, a defendant may remove to a federal district court any civil action in a state court over which a district court could exercise original jurisdiction. 28 U.S.C. § 1441(a). Removal is forbidden, however, when a properly joined and served defendant is a citizen of the State where the action was brought. 28 U.S.C. § 1441(b)(2) (hereinafter “the forum-defendant rule”). Courts must strictly construe removal jurisdiction because it implicates federalism. *Mulcahey v. Columbia Organic Chems. Co.*, 29 F.3d 148, 151 (4th Cir. 1994). Courts should resolve all doubts about removal's propriety in favor of retained state court jurisdiction. *Hartley v. CSX Transp., Inc.*, 187 F.3d 422, 425 (4th Cir. 1999); *cf. Medish v. Johns Hopkins Health Sys. Corp.*, 272 F. Supp. 3d 719, 724 (D. Md. 2017) (“Plaintiffs are generally able to choose their preferred forum, and the forum-defendant rule serves to prevent an in-state defendant, who does not face regional discrimination from their state courts, from stymieing a plaintiff's choice of a state court forum.”). A court's analysis of a statute ends with its plain language absent some ambiguity. *Hillman v. I.R.S.*, 263 F.3d 338, 342 (4th Cir. 2001). A court may depart from the statute's plain language when a literal application produces an outcome that is (1) demonstrably at odds with clear, contrary congressional intent, or (2) absurd. *See Id.* at 342. Courts have used multiple standards for absurdity, including that the absurdity must be so gross as to shock the general moral or common sense, *Crooks v. Harrelson*, 282 U.S. 55, 60 (1930); the absurdity must be “so monstrous that all

mankind would, without hesitation, unite in rejecting the application,” *Pirie v. Chi. Title & Tr. Co.*, 182 U.S. 438, 452 (1901); or the absurdity must be such that it is impossible that Congress could have intended the result and the absurdity is so clear as to be obvious to everyone, *Gibbons v. Bristol-Meyers Squibb Co.*, 919 F.3d 699, 706 (2d Cir. 2019). Producing anomalous or unwise outcomes is not enough to find absurdity. *See Gibbons*, 919 F.3d at 705.

Courts disagree about whether the forum-defendant rule prevents removal by properly joined but unserved forum-defendants. Some courts find that the plain language is clear, the resulting application is not absurd, and Congress did not clearly express contrary intent. *See Id.* at 707; *Texas Brine Co. v. Am. Arb. Ass’n*, 955 F.3d 482 (5th Cir. 2020); *Bloom v. Library Corp.*, 112 F. Supp. 3d 498 (N.D.W. Va. 2015). Others believe the statute’s purpose is preventing gamesmanship and restricting opportunities for removal, and that allowing removal by unserved forum-defendants contradicts these purposes. *See Goodwin v. Reynolds*, 757 F.3d 1216 (11th Cir. 2014); *Reimold v. Gokaslan*, 110 F. Supp. 3d 641 (D. Md. 2015); *Medish*, 272 F. Supp. 3d at 727; *Phillips Contr., LLC v. Daniels Law Firm, PLLC*, 93 F. Supp. 3d 544 (S.D.W. Va. 2015). In an earlier case where unserved forum-defendants removed to federal court, this Court remanded because the defendants’ interpretation of the forum-defendant rule “entirely thwarted” its purpose. *Alfasigma USA, Inc. v. ExeGi Pharma, LLC*, No. TDC-19-1180, 2019 U.S. Dist. LEXIS 186781 at *8 (D. Md. Oct. 15, 2019).

Section 1441(b)(2)’s plain text is clear. It requires proper joinder and service. Yet, a literal application produces a result demonstrably at odds with congressional intent, although likely not an absurd result. The forum-defendant rule exists to prevent in-state defendants from avoiding their home state’s jurisdiction. *See Medish*, 272 F. Supp. 3d at 719 (D. Md. 2017). The “properly joined and served” language’s purpose is preventing a plaintiff from fraudulently joining a

defendant to block removal. *See, e.g., Goodwin*, 757 F.3d at 1221. The forum-defendant rule thus addresses removal jurisdiction's federalism concerns while impeding potential gamesmanship by either side. A defendant cannot escape their state's courts and a plaintiff cannot fraudulently keep a case out of federal court. Allowing removal that would otherwise violate the forum-defendant rule because of an accident of timing would defy the rule's purpose. It likely does not rise to the legal standard of absurdity, however, because a loophole in civil procedure is likely not "so monstrous that all mankind would, without hesitation, unite in rejecting the application," and would not shock the general conscience or be clearly and obviously absurd to everyone. Although it does not clear absurdity's high bar, this Court may still depart from the statute's plain text because the literal interpretation is demonstrably at odds with congressional intent.

Supporters of a literal reading would counter that there is no clear congressional intent to contravene. The published legislative history does not explain why Congress added the "properly joined and served" language to the forum-defendant rule. *See Goodwin*, 757 F.3d at 1221. The interpretation that the statute's goal was preventing gamesmanship comes from the courts. *See Id.* The United States Court of Appeals for the Second Circuit, while arguing that there is no clear congressional intent, speculated that Congress may have used service of process as a bright line in the forum-defendant rule, for instance. *See Gibbons*, 919 F.3d at 706. This interpretation sits uncomfortably with the wider context of the removal statute, which deals little with service. There is little indication that this is anything more than a post-hoc rationalization for a loophole that produces results clearly at odds with the statute's purpose. If Congress had intended for this provision to serve as a bright-line rule requiring service, they almost certainly would have made the line bright enough that its existence was unmissable, rather than hiding it in the second half of an adjective-phrase. The only reasonable interpretation of the rule is that of preventing

gamesmanship. Although a direct legislative history is lacking, the structure of the statute reveals Congress's intent.

A critic may also contend that even if the rule's purpose is countering gamesmanship, the "properly joined and served" language applies only to plaintiff-side gamesmanship. This argument misses the forest for the trees. This Court is not interpreting the words "properly joined and served" in isolation, but as part of a larger statutory provision. Although the "properly joined and served" language does aim at preventing gamesmanship by plaintiffs, it is embedded in a larger provision aimed at preventing gamesmanship by defendants. Read as a whole, the statute is meant to close avenues to gamesmanship on both sides, and any interpretation which reads it as enabling gamesmanship in removal jurisdiction ought to be rejected.

Both the Plaintiffs and the Defendants accuse the other of gamesmanship. Filing this action in Maryland Circuit Court despite similar litigation already pending before this Court and despite potential federal question issues may be gamesmanship by the Plaintiffs. Using a controversial loophole in the removal statute to circumvent the plaintiff's choice of venue may be gamesmanship by the defendants. Gamesmanship is never admirable, but the Defendants' conduct is more severe as it interferes with a plaintiff's ability to choose their own forum, implicates removal jurisdiction's inherent federalism concerns, and uses a loophole to turn the forum-defendant rule on its head. The extent of the Plaintiffs' gamesmanship on this issue, however, is merely not selecting arguably the most judicially efficient venue. The rewards for gamesmanship should be minimized wherever possible. This is especially true when the gamesmanship arises from exploiting a loophole in a statute meant to counteract gamesmanship.

CONCLUSION

This case should be remanded to Maryland Circuit Court. Although the plain text of the removal statute would allow removal by an unserved forum-defendant, this is demonstrably at odds with clear congressional intent and twists a statute meant to impede gamesmanship into one that rewards it. Arguments that there is no clear congressional intent or that the statute only prevents plaintiff-side gamesmanship fail when the statute is read in context. For those reasons, the literal reading must be rejected, and this Court should remand.

Applicant Details

First Name **Julia**
 Last Name **Cash**
 Citizenship Status **U. S. Citizen**
 Email Address juliacash91@gmail.com
 Address

Address
Street
1215 1ST ST NE
City
Washington
State/Territory
District of Columbia
Zip
20002-7935
Country
United States

Contact Phone Number **937-838-7774**

Applicant Education

BA/BS From **Ohio State University-Columbus**
 Date of BA/BS **May 2019**
 JD/LLB From **Georgetown University Law Center**
https://www.nalplawschools.org/employer_profile?FormID=961
 Date of JD/LLB **May 19, 2024**
 Class Rank **School does not rank**
 Law Review/Journal **Yes**
 Journal(s) **Georgetown Journal of Gender and the Law**
 Moot Court Experience **Yes**
 Moot Court Name(s) **Barristers' Council Appellate Advocacy Division**

Bar Admission

Prior Judicial Experience

Judicial Internships/
Externships **No**
Post-graduate Judicial
Law Clerk **No**

Specialized Work Experience

Recommenders

Greenberg, Bonnie
bsgreenberg50@gmail.com
410-615-3175

Paul, Rothstein
Paul.Rothstein@law.georgetown.edu
202.662.9094

Ayer, Donald
Donald.Ayer@law.georgetown.edu

**This applicant has certified that all data entered in this profile and
any application documents are true and correct.**

JULIA CASH

1215 First St. NE, Apt. 4D, Washington, DC 20002 • (937) 838-7774 • juliacash91@gmail.com

06/12/2023

The Honorable Jamar K. Walker
United States District Court for the Eastern District of Virginia
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510

Dear Judge Walker,

I am writing to apply for a clerkship in your chambers for the 2024-25 term. I am a rising third-year student at Georgetown University Law Center. I currently work as a summer associate at Boies Schiller Flexner in Washington, D.C., and will receive my J.D. in May 2024. Long term, I plan to remain in the DMV area. Thus, clerking for you would give me the opportunity to lay down roots while doing the work I most enjoy.

I am well-prepared to be your law clerk. This year at Georgetown, I achieved a grade point average near the top of my class and honed my legal writing and research skills as a member of the *Georgetown Journal of Gender and the Law*. Last summer, I gained hands-on litigation experience while working in the Department of Justice Civil Division, where I drafted dispositive motions in several federal courts. Before I transferred to Georgetown, I spent my first year in law school at the University of Maryland Francis King Carey School of Law, where I secured the highest grade in three of my first-year courses and was invited to join the *Maryland Law Review*.

Enclosed please find my resume, transcript, writing sample, and recommendation letters from former U.S. Deputy Attorney General Donald Ayer, former Assistant U.S. Attorney Bonnie Greenberg, and Professor Paul Rothstein. Please reach out if you need more information or have any questions. Thank you for considering my application.

Sincerely,



Julia Cash

JULIA CASH

1215 First St. NE, Apt. 4D, Washington, DC 20002 • (937) 838-7774 • juliacash91@gmail.com

EDUCATION

GEORGETOWN UNIVERSITY LAW CENTER

Juris Doctor

GPA: 3.84
 Honors: Leahy Moot Court Competition Finalist
 Journal: *Georgetown Journal of Gender and the Law*
 Activities: Barristers' Council Appellate Advocacy Division

Washington, DC
 Expected May 2024

UNIVERSITY OF MARYLAND SCHOOL OF LAW

First-year J.D. coursework completed

GPA: 3.88 (Top 5%)
 Honors: CALI Award for Highest Grade in Course: Lawyering I (Fall 2021), Contracts (Fall 2021), Lawyering II (Spring 2022)
 Maryland Law Scholars Merit Scholarship
 Journal: *Maryland Law Review* (Invitation extended)
 Activities: Maryland Public Interest Law Project (Class Representative, Outreach Chair)
 National Trial Team

Baltimore, MD
 2021-2022

THE OHIO STATE UNIVERSITY

Bachelor of Arts, *magna cum laude*, in Political Science (minors in History and Music)

Honors: Ohio State Provost Scholar, STEP Program Scholarship, Dean's List (six of seven semesters)
 Activities: Mock Trial Team, All- American Award Winner (awarded to top 20 advocates in the country)

Columbus, OH
 May 2019

EXPERIENCE

BOIES SCHILLER FLEXNER LLP

- Summer Associate beginning May 2023.

Washington, DC

THE UNITED STATES DEPARTMENT OF JUSTICE

Summer Intern – Civil Division, National Courts Section

- Assisted in drafting appellate briefs and motions to dismiss before the Court of Federal Claims and the U.S. Court of Appeals for the Federal Circuit.
- Performed legal research on matters relating to government contracts, international trade, and constitutional claims.

Washington, DC
 May 2022 – July 2022

DUKE UNIVERSITY MOCK TRIAL TEAM

A-Team Coach

- Led a team of Duke undergraduate students in mock trial competitions across the country.
- Taught students how to develop case theory, evidentiary rules, trial advocacy skills, and public speaking skills.

Durham, NC
 August 2019 – April 2022

AMERICORPS

Refugee Employment Program Caseworker

- Served refugee communities in Durham, NC, by helping to find and secure employment.
- Taught vocational education, financial planning, and ESL classes to clients. Provided case management services such as scheduling appointments, navigating the healthcare system, setting up new apartments, and public transportation orientation.

Durham, NC
 September 2019 – August 2020

LEGAL AID SOCIETY OF COLUMBUS

Legal Intern – The Tenant Advocacy Project

- Assisted with the development of and participated in the Tenant Advocacy Project, an in-court eviction clinic offering day-of representation to pro se litigants facing eviction hearings; interviewed clients, gathered and analyzed evidence, identified legal defenses to eviction, supported supervising attorney in court hearings and negotiations with landlord counsel.
- Worked directly with tenants to keep them informed about the status of their case and to collect additional information.

Columbus, OH
 December 2017 – June 2019

This is not an official transcript. Courses which are in progress may also be included on this transcript.

Record of: Julia M. Cash
GUID: 810583167

Course Level: Juris Doctor

Transfer Credit:

UNIV MARYLAND BALTIMORE

School Total: 31.00

Entering Program:

Georgetown University Law Center

Juris Doctor

Major: Law

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
----- Fall 2022 -----							
LAWJ	1631	05	Federal Practice Seminar: Contemporary Issues	2.00	A-	7.34	
LAWJ	165	02	Irving Gornstein Evidence	4.00	A	16.00	
LAWJ	195	05	Michael Pardo Election Law: Voting, Campaigning and the Law	3.00	B+	9.99	
LAWJ	215	08	Paul Smith Constitutional Law II: Individual Rights and Liberties	4.00	A	16.00	
----- Spring 2023 -----							
LAWJ	1245	05	Gary Peller Trial Practice and Applied Evidence	3.00	A	12.00	
LAWJ	168	07	Advanced Evidence: Supreme Court and the Constitution Seminar	3.00	A	12.00	
LAWJ	178	05	Federal Courts and the Federal System	3.00	A-	11.01	
LAWJ	361	03	Professional Responsibility	2.00	A-	7.34	
LAWJ	469	05	Supreme Court Litigation Seminar	3.00	A	12.00	
----- Transcript Totals -----							
			EHrs	QHrs	QPts	GPA	
Current			13.00	13.00	49.33	3.79	
Cumulative			44.00	13.00	49.33	3.79	
----- End of Juris Doctor Record -----							

OFFICIAL TRANSCRIPT

Patricia A. Scott
 Patricia A. Scott
 University Registrar
 University of Maryland, Baltimore

Student No: @00307210

Date Issued: 05-JUN-2022

Record of: Julia M Cash

Page: 1

Current Name: Julia M. Cash

Issued To: JULIA CASH

JCASH@UMARYLAND.EDU

Parchment DocumentID: TWSXV3WR

Course Level: School of Law

***** TRANSCRIPT TOTALS *****

Current Program

***** Earned Hrs GPA Hrs Points GPA *****

Major: Law

TOTAL INSTITUTION 32.00 32.00 124.30 3.88

Maj/Concentration: Law Cardin Required

TOTAL TRANSFER 0.00 0.00 0.00 0.00

SUBJ NO. COURSE TITLE CRED GRD PTS R OVERALL 32.00 32.00 124.30 3.88

***** END OF TRANSCRIPT *****

INSTITUTION CREDIT:

Fall 2021

LAW 527A CIVIL PROCEDURE 4.00 A- 14.68

LAW 530A CONTRACTS 4.00 A+ 17.32

LAW 535A TORTS 4.00 B+ 13.32

LAW 550A INTRODUCTION TO LEGAL RESEARCH 1.00 A 4.00

LAW 564A LAWYERING I 3.00 A 12.00

Ehrs: 16.00 GPA-Hrs: 16.00 QPts: 61.32 GPA: 3.83

Spring 2022

LAW 506A CRIMINAL LAW 3.00 B+ 9.99

LAW 515U LAW AND SOCIAL CHANGE 3.00 A 12.00

LAW 528A CON LAW I: GOVERNANCE 3.00 A 12.00

LAW 534A PROPERTY 4.00 A 16.00

LAW 565A LAWYERING II 3.00 A+ 12.99

Ehrs: 16.00 GPA-Hrs: 16.00 QPts: 62.98 GPA: 3.94

Fall 2022

IN PROGRESS WORK

LAW 515H CRIMINAL PROCEDURE 3.00 IN PROGRESS

LAW 529A CON LAW II: INDIVIDUAL RIGHTS 3.00 IN PROGRESS

LAW 576G ADV LEG RESEARCH (DISTANCE EDU) 1.00 IN PROGRESS

LAW 578B EVIDENCE 3.00 IN PROGRESS

LAW 592C NATIONAL TRIAL TEAM 2.00 IN PROGRESS

LAW 596S OPIOID EPIDEMIC: LAW & POL SEM 3.00 IN PROGRESS

In Progress Credits 15.00

***** CONTINUED ON NEXT COLUMN *****

Adrienne Bricker
Adrienne Bricker
University Registrar

THE OHIO STATE UNIVERSITY TRANSCRIPT



Name: Julia Marolyn Cash
Student: 500113934
DOB: 09/28/****
Print Date: 06/10/2023
Page 1 of 2
OSUOF

JULIA CASH
JULIACASH91@GMAIL.COM

POLITSC	3290	Comparat Pub Pol	3.00	3.00	B+	9.900
POLITSC	3450	Ethics Public Pol	3.00	3.00	A-	11.100
SPANISH	2202.01	Reading Comp	3.00	3.00	A-	11.100
STEP	MEETNG STEP		0.00	0.00	S	0.000

Institutions Attended	Term GPA	GPA Hours	Earned	Points
The Ohio State University	3.652	Term Totals	17.00	62.100
University of Cincinnati	3.497	Cum Totals	49.00	171.400
Springboro High School				

Springboro High School
High School Diploma May 28, 2016

External Degrees

OSU Degrees Awarded

Degree: Bachelor of Arts
Confer Date: May 5, 2019
Degree Honors: Magna Cum Laude
Plan: Political Science Major
Sub-Plan: American Politics
Plan: Music Minor
Plan: History Minor

Beginning of Undergraduate Record

Program: Arts and Sciences
Plan: Political Science Major

Course	Description	Attempted	Earned	Grade	Points
ARTSSCI	1100.14 ASC College Survey	1.00	1.00	S	0.000
ENGLISH	2260 Intro to Poetry	3.00	3.00	A	12.000
MATH	1151 Calculus 1	5.00	5.00	D+	6.500
POLITSC	1200 Intro Comp Poltics	3.00	3.00	A	12.000
SPANISH	1155 Intensive Spanish	4.00	4.00	A	16.000

Test Credits Applied Toward Arts and Sciences

Course	Description	Attempted	Earned	Grade	Points
ENGLISH	1110.02 First-Yr Engrl Comp	0.00	3.00	EM	0.000
HISTORY	1151 Amer Civ to 1877	0.00	3.00	EM	0.000
HISTORY	1152 Am Civ since 1877	0.00	3.00	EM	0.000
POLITSC	1100 Intro Amer Politics	0.00	3.00	EM	0.000
PSYCH	1100 Intro Psychology	0.00	3.00	EM	0.000
Test Trans GPA:	0.000	Transfer Totals:	0.00	15.00	0.000

Term GPA	GPA Hours	Earned	Points
3.100	Term Totals	15.00	31.00
3.100	Cum Totals	15.00	31.00

Spring 2017 Semester

Program: Arts and Sciences
Plan: Political Science Major

Course	Description	Attempted	Earned	Grade	Points
EARTHSC	1121 Dynamic Earth	4.00	4.00	B-	10.800
MUSIC	2251 Wrld Classical Mus	3.00	3.00	A	12.000
POLITSC	2300 Am Foreign Policy	3.00	3.00	A	12.000
PSYCH	2367.02 Abnormal Psych	3.00	3.00	A	12.000
SPANISH	1103.01 Spanish 3	4.00	4.00	A	16.000

Term GPA	GPA Hours	Earned	Points
3.694	Term Totals	17.00	62.800
3.415	Cum Totals	32.00	109.300

Dean's List

Program: Arts and Sciences
Plan: Political Science Major
Plan: Music Minor
Plan: Spanish Minor

Course	Description	Attempted	Earned	Grade	Points
HUMNNTR	2210 Sci Hum Nutrition	3.00	3.00	A	12.000
MUSIC	2021 Music Theory 1 Non	2.00	2.00	B	6.000
POLITSC	3220 Polit Dvlpng World	3.00	3.00	A	12.000

Dean's List

Program: Arts and Sciences
Plan: Political Science Major
Plan: Music Minor
Plan: Spanish Minor

Course	Description	Attempted	Earned	Grade	Points
BIOLOGY	1101 Intro Biology	4.00	4.00	A	16.000
MUSIC	2252 Histry Rock & Roll	3.00	3.00	A	12.000
POLITSC	3780 Data Lit & Vis	3.00	3.00	A-	11.100
POLITSC	4137 Pol Legal Dec Makg	3.00	3.00	A-	11.100
SPANISH	3401 Advanced Grammar	3.00	3.00	A-	11.100

Term GPA	GPA Hours	Earned	Points
3.831	Term Totals	16.00	61.300
3.580	Cum Totals	65.00	232.700

Dean's List

Program: Arts and Sciences
Plan: Political Science Major
Plan: Music Minor
Plan: Spanish Minor

Course	Description	Attempted	Earned	Grade	Points
HISTORY	2550 History of War	3.00	3.00	A	12.000
HISTORY	3301 Hist Mod W Africa	3.00	3.00	A	12.000
LAW	5796 Anglo-Am Legal Sys	6.00	6.00	A	24.000
POLITSC	3310 Def Pol Natnl Sec	3.00	3.00	A	12.000

Term GPA	GPA Hours	Earned	Points
4.000	Term Totals	15.00	60.000
3.658	Cum Totals	80.00	292.700

Dean's List

Program: Arts and Sciences
Plan: Political Science Major
Subplan: Comparative Politics Specialization
Plan: Spanish Minor
Plan: Music Minor

Course	Description	Attempted	Earned	Grade	Points
MUSIC	3348 Music on the Move	3.00	3.00	A	12.000
POLITSC	4130 Law & Politics	3.00	3.00	A	12.000
POLITSC	4136 Civil Liberties	3.00	3.00	A	12.000
POLITSC	4250 African Politics	3.00	3.00	A	12.000
POLITSC	4300 Theories Intl Rel	3.00	3.00	A	12.000
SPANISH	3403 Int Sp Composition	3.00	3.00	B	9.000

Term GPA	GPA Hours	Earned	Points
3.833	Term Totals	18.00	69.000
3.690	Cum Totals	98.00	361.700

Dean's List

Adrienne Bricker
Adrienne Bricker
University Registrar

THE OHIO STATE UNIVERSITY TRANSCRIPT



Name: Julia Marolyn Cash
Student: 500113934
DOB: 09/28/****
Print Date: 06/10/2023
Page 2 of 2
OSUOF

Spring 2019 Semester

Program: Arts and Sciences
Plan: Political Science Major
Subplan: Comparative Politics Specialization
Plan: Spanish Minor
Plan: Music Minor
Plan: History Minor

Course	Description	Attempted	Earned	Grade	Points
HISTORY 2351	Islmc Soc 610-1258	3.00	3.00	A	12.000
HISTORY 3270	World War I	3.00	3.00	A	12.000
MUSIC 2220	Intro Music Tech	1.00	1.00	A	4.000
MUSIC 3349	20th Century Music	3.00	3.00	A	12.000
POLITSC 4138	Women & the Law	3.00	3.00	A	12.000

		GPA Hours	Earned	Points
Term GPA	4.000 Term Totals	13.00	13.00	52.000
Cum GPA	3.727 Cum Totals	111.00	127.00	413.700

Dean's List

Undergraduate Career Totals

Cum GPA:	3.727 Cum Totals	111.00	127.00	413.700
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End of Undergraduate Transcript





OFFICE OF THE UNIVERSITY REGISTRAR
STUDENT ACADEMIC SERVICES BUILDING, 5TH FLOOR
281 WEST LANE AVENUE
COLUMBUS, OH 43210-1132
TELEPHONE: 614-292-9330
EMAIL: REGISTRAR@OSU.EDU

RELEASE OF INFORMATION

This transcript cannot be released to another person, agency or organization except to officials internal to your own organization or agency who have a reasonable business use for the information. Release to other parties requires written consent of the student.

ACCREDITATION

The Ohio State University (Columbus, Lima, Mansfield, Marion, Newark and the Agricultural Technical Institute, Wooster, Ohio) is accredited by the Higher Learning Commission as a degree-granting institution at the associate, baccalaureate, masters, professional and doctoral levels.

DETAILED TRANSCRIPT KEY

For a more detailed version of this transcript key including information on good standing, probation, dismissal and the definition of enrollment status, please visit <https://registrar.osu.edu/alumni/transcriptkey.asp>

GRADING SYSTEM

A	• Excellent.....4.0 Pts	I	• Incomplete.....0 Pts
A-	• Excellent.....3.7 Pts	IP	• In Progress.....0 Pts
B+	• Above Average.....3.3 Pts	IX	• Extension of Incomplete.....0 Pts
B	• Above Average.....3.0 Pts	P	• Progress.....0 Pts
B-	• Above Average.....2.7 Pts	PA	• Pass.....0 Pts
C+	• Average.....2.3 Pts	PE	• Emergency Pass.....0 Pts
C	• Average.....2.0 Pts	NP	• Non-pass.....0 Pts
C-	• Average.....1.7 Pts	R	• Registered to Audit.....0 Pts
D+	• Poor.....1.3 Pts	S	• Satisfactory.....0 Pts
D	• Poor.....1.0 Pts	U	• Unsatisfactory.....0 Pts
E	• Failure.....0 Pts	W	• Withdrew.....0 Pts
EM	• Examination Credit.....0 Pts	NG	• Grade unreported by instructor.....0 Pts
EN	• Failure-Non Attendance.....0 Pts	NEN	• EN grade for PA/NP course.....0 Pts
K	• Transferred Credit.....0 Pts	UEN	• EN grade for S/U course.....0 Pts

notation denotes a course involved in the forgiveness or substitution of grades - see Recalculation of Grades

SPECIAL COURSE NUMBER NOTATIONS

E suffix	Honors embedded course
H suffix	Honors course or honors version of a course
S suffix	Service Learning course
T suffix	Technical course (part of a two year technical program)

RECALCULATION OF GRADES

FORGIVENESS OR SUBSTITUTION OF GRADES: Students may petition their enrollment unit to repeat a course, and after completing the course the second time, have the original course credit and grade excluded from the calculation of the student's cumulative point-hour ratio, but remain on the student's official permanent record. The course or courses being substituted or repeated will bear the symbol "#" to the left of the grade.

PERMITTED TO RESTART GPA OR FRESH START: An undergraduate student who enrolls in the university after an absence of five or more years may petition to have their GPA recalculated. If the petition is approved, the student resumes their academic program with no cumulative GPA. All courses taken will remain on the permanent record.

This Academic Transcript from The Ohio State University located in Columbus, OH is being provided to you by Parchment, Inc. Under provisions of, and subject to, the Family Educational Rights and Privacy Act of 1974, Parchment, Inc. is acting on behalf of The Ohio State University in facilitating the delivery of academic transcripts from The Ohio State University to other colleges, universities and third parties.

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TRANSCRIPT KEY**CALENDAR**

- The semester system replaced the quarter system for the university in summer 2012
- The semester system replaced the quarter system for the College of Law in autumn 1984

UNIVERSITY CLASS RANKING SYSTEM

Student rank in all undergraduate colleges is based on total credit hours completed and recorded. Graduate students are not ranked. Professional students are ranked according to progress within their curriculum.

Semester Calendar			Quarter Calendar		
Rank	Earned Hours		Rank	Earned Hours	
Freshman	0	through 29	Freshman	0	through 44
Sophomore	30	through 59	Sophomore	45	through 89
Junior	60	through 89	Junior	90	through 134
Senior	90	and up	Senior	135	and up

COURSE NUMBERING SYSTEM**SEMESTER CALENDAR**

1000-1099	UG (Undergraduate) - Non Credit Courses Non-credit courses for orientation, remedial, or other non-college-level experiences. These are courses in addition to a program's graduation requirements.
1100-1999	UG - Introductory Level Undergraduate Courses Basic courses providing undergraduate credit, but not to be counted toward major or field of specialization in any department. Courses at this level are beginning courses, required or elective courses that may be a prerequisite to other courses.
2000-2999	UG - Intermediate Level Undergraduate Courses Intermediate courses providing undergraduate credit and may be counted toward a major or field of specialization.
3000-3999	UG - Upper Level Undergraduate Courses Upper Level courses providing undergraduate credit that may be counted toward a major or field of specialization.
4000-4999	UG - Advanced Level Undergraduate Courses Advanced Level courses providing undergraduate credit that may be counted toward a major or field of specialization. Graduate students may enroll in and receive graduate credit for 4000-level courses outside their own graduate program.
5000-5999	UG and G (Graduate) - Dual Career Level Courses Courses that are regularly offered for both graduate credit and undergraduate credit. Advanced Level courses providing undergraduate credit that may be counted toward a major or field of specialization. Foundational coursework and research providing graduate or professional credit.
6000-6999	G - Foundational Level Graduate and Professional Courses Foundational courses and research providing graduate or professional credit.
7000-7999	G - Intermediate Level Graduate and Professional Courses Intermediate courses and research providing graduate or professional credit.
8000-8999	G - Advanced Level Graduate and Professional Courses Advanced courses and research providing graduate or professional credit.

Quarter Calendar

000-099	Non-Credit Courses (except certain seminars and colloquia) for orientation, remedial, or other non-college-level experiences. Credit is not applicable to Graduation Requirements.
100-199	Basic Courses providing undergraduate Credit but not to be counted on a major or field of specialization in any department. Beginning Courses, Required, or Elective Courses that may be prerequisite to other courses.
200-299	Basic Courses providing Undergraduate Credit and may be counted on a major or field of specialization.
300-499	Intermediate Courses providing Undergraduate Credit or Basic Professional Credit that may be counted on a major or field of specialization.
500-599	Intermediate Courses providing Undergraduate or Professional Credit that may be counted on a major or field of specialization and may provide Graduate Credit only in other departments.
600-699	Courses providing Undergraduate or Professional Credit that may be counted on a major or field of specialization, and may provide Graduate Credit (in all departments).
700-799	Advanced Courses providing Undergraduate, Graduate, or Professional Credit.
800-999	Courses providing Graduate Credit and are open to undergraduates only with the approval of the Vice Provost for Research and Dean of the Graduate School.

Georgetown Law
600 New Jersey Avenue, NW
Washington, DC 20001

June 12, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

Julia Cash was an outstanding student, and I am honored to recommend her for a judicial clerkship in your chambers. I had the pleasure of teaching her in my Spring 2023 Trial Practice & Applied Evidence course at Georgetown University Law Center ("Georgetown"). Julia is intelligent, hard-working, and passionate. I believe she would share keen insights and work diligently, thereby being a great asset to your chambers,

I was a federal prosecutor for over 37 years, teaching frequently in the Department of Justice's advocacy center and overseas while carrying a full docket of cases. I have been an adjunct professor at various law schools since 2006, including the last three years teaching Trial Practice & Applied Evidence at Georgetown. As you might expect from the title of the course, my goal is to enable the students to be able to conduct a trial from beginning to end, including proper application of the Rules of Evidence.

Julia entered my class with some experience in trial advocacy. She had competed in mock trial as an undergraduate and went on to coach other students following her graduation with great success. At Georgetown, she competed as a member of the Moot Court team. Even with that background Julia approached my class with exceptional curiosity, often asking questions to expand her prior understanding.

Specifically, Julia aided the learning process for everyone in the course by often asking how a particular factual or legal issue might be addressed in a real court case, resulting in interesting and dynamic discussions. Julia was very interested in obtaining practical, rather than theoretical, advice. I very much appreciated Julia's knowledge of trial advocacy and the rules of evidence which enabled her to take a leadership role in the course.

Put simply, Julia was an excellent student and a team player. She was consistently prepared and would often begin or lead our class discussions. Julia's command over the rules of evidence was quite impressive and she was also willing to defend her positions, leading us to get into class debates about the value of a best evidence objection or whether certain testimony would be barred under Rule 403. Julia was an effective advocate, and a graceful loser, recognizing that there were many aspects of the law she still could learn.

Outside of our conversations, Julia was always willing to help her classmates, thoughtfully listening to their performances and giving specific, effective feedback. Moreover, Julia was willing to take criticism and would always incorporate any suggestions, whether from me or her classmates, into her next performance. In our final trial, Julia and her partner worked well together to craft a great defense. Her performance was one I would expect from a more experienced litigator. I gave Julia an A for the course.

There is no question in my mind that Julia has the intelligence, legal skills, and professional qualities to be a great law clerk. If you have any additional questions or require any further information, please do not hesitate to contact me.

Sincerely,

Professor Bonnie S. Greenberg
Bsgreenberg50@gmail.com
410-615-3175

Bonnie Greenberg - bsgreenberg50@gmail.com - 410-615-3175

Georgetown Law
600 New Jersey Avenue, NW
Washington, DC 20001

June 12, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I hope this letter finds you well. I am writing to very enthusiastically recommend Julia Cash for a judicial clerkship. Julia is a supremely intelligent student and a very highly skilled researcher and writer. I am confident (in the highest degree) that she would be an excellent addition to your chambers.

Julia was a student in my "Advanced Evidence: Supreme Court & Constitution" seminar course. This course requires the students to write an advanced scholarly research paper through several drafts over the course of the semester, as well as to participate in regular class sessions and coursework. I give students freedom to write the advanced scholarly research paper about whatever legal topic may pique their interest within the scope of the seminar. The papers go through several drafts as the semester progresses. Each week, the class reads each other's work and comes ready to give critiques of their peers' draft papers. I myself also critique each draft both orally and in writing. [My own background is that of a practicing lawyer (in trial and appellate litigation) and subsequently as a professor at Georgetown Law for the last several decades.]

For my course, Julia wrote a thirty-seven-page paper analyzing how the Supreme Court's recent decision in *New York Rifle & Pistol Association v. Bruen* (broadening the constitutional right to bear arms) affects laws disarming those who commit domestic violence. The paper surveyed past Supreme Court precedent, dozens of lower court decisions, and a variety of historical source materials. Her final paper was extremely well-written, thoughtful, and thorough. She critiqued the *Bruen* opinion with nuance and analytical precision, exhibiting an ability to thoughtfully engage with and address tough counterarguments. Her ability to synthesize and analyze precedent is well beyond her years. Her writing is concise, crisp, and easy to follow.

I emphasize that Julia demonstrated excellent research skills. Her paper was extremely well documented with citations to a wide range of sources. Given the contemporary nature of Julia's topic, new cases on the subject were being decided as Julia proceeded through her drafts. She incorporated these into her analysis along with new articles and portions of oral argument transcripts. Her final paper provided a thorough survey of a swiftly evolving and uncertain area in the law. Her peers were as impressed with her and her drafts as I was.

Oral presentation of drafts is also required in the course. Julia presented her drafts orally in front of the class with clarity and impact. She conveyed her thoughts succinctly and efficiently. It was clear to me that Julia had immersed herself in the material and had become an expert on her topic.

It is also required in the course that students read, hear, and comment on the drafts of the other students. Julia's comments on other students' drafts were as noteworthy as her own drafts, her oral presentations, and her researching and writing skills. In regard to commenting on the drafts of others, she frequently supplied the other students with pertinent suggestions and observations, relevant additional related areas and citations, and helpful ways papers could be improved, while at the same time enthusiastically giving recognition to their good points. She did it all in a kind, polite fashion that made her popular with her classmates. One student told me Julia was regarded as the "Simon Cowell" of the class—the person with the highest standards, the one that you had to please with your draft (aside from the professor). This student was referring of course to the English guy who is/was the toughest, frankest judge on the "American Idol" and "America's Got Talent" TV shows. But this student hastened to add that Julia does it in the nicest, kindest way.

In sum, Julia always came prepared to class and was an essential participant in our group discussions. She was supportive of her fellow classmates and her commentary made it clear that she was invested in their work. She was a real "presence" in the classroom, challenging her peers and asking thoughtful questions to our esteemed guest speakers, all in a delightful, appreciated manner. She is collegial to work with.

Her hard and able work on all the levels I have mentioned in this letter obviously earned her an "A" in the course.

Bottom line, I am sure Julia would be great in any legal position, including (and perhaps especially) as a judicial law clerk. Having seen the quality of work she is capable of producing for my class, I have no doubt she will be able to tackle any assignment given to her. I recommend her with great enthusiasm, and I hope you will let me know if I can be of any further assistance in connection with considering her for a position with you.

Sincerely,

Paul F. Rothstein

Rothstein Paul - Paul.Rothstein@law.georgetown.edu - 202.662.9094

Georgetown Law
600 New Jersey Avenue, NW
Washington, DC 20001

June 12, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing to you in support of the candidacy of Julia Cash, who has recently applied to you for a clerkship. Julia was a student in my class in Supreme Court Litigation, which I have taught at Georgetown since 2006. She distinguished herself in all aspects of our work, receiving an "A" grade and tying with one other student for the highest point total. From her class work and from talking with her outside of class, I believe that she would be a really excellent law clerk.

Students in my class are tested on several levels, including oral advocacy, the ability to informally discuss legal issues and principles, and most importantly, legal writing in the form of two short Supreme Court briefs in actual cases, including one reply brief in a case from the current Court Term (*Dubin v. US*). Probably of greatest relevance to the role of law clerk, Julia's work on the two briefs was truly excellent.

She has a very clear and direct writing style, and a strong intuitive sense of the relative force carried by various arguments and of how to make assertions in the most compelling ways. Her briefs are quite well organized. They flow logically and frame an argument that is easy to grasp. Her headings exhibit substantial care to accurately capture the key points being made. While I spend at least a couple of hours reviewing and commenting on these briefs, in Julia's case, my suggestions for improvement were quite minimal. Her briefs seem very much the work of an experienced lawyer, well ahead of what one usually sees from even a very capable second year law student.

Her moot court argument in *Groff v. Dejoy* – before the rest of the class sitting as justices – was of a similar quality. It was carefully crafted to lead with the strongest points on behalf of the respondent United States, defending a questionable interpretation of the religious accommodation provision of Title VII, and she was also well prepared to address the tough questions that she faced. As with her briefs, her argument was the work of someone with a very good sense of how to go about the task at hand. She also was a very effective questioner of her colleagues in the arguments that they presented, and an active participant in class discussions, not afraid to speak forcefully when she felt it appropriate under the circumstances.

Since the end of the class, and Julia's request that I serve as a clerkship recommender, I have come to learn a bit more about her background that I believe may provide some insight into the maturity and high quality of her work. A big part of that is her extensive and very successful experience in high school, college, and after, in activities of the American Mock Trial Association. After being introduced to the activity by her high school government teacher in Dayton, Julia pursued it during her time at Ohio State, where she graduated in three years.

Her efforts won her an All-American Award, as one of the 20 top advocates in the country. Following graduation, she moved to North Carolina to spend a gap year in Americorps, where she worked with asylum seekers in a wide variety of ways. While there, though, she was contacted by the mock trial team at Duke, and ended up serving for three years as their coach, which has come to be ranked in the top five teams out of 700 total teams nation-wide.

In talking with her recently, I am also very impressed with Julia's drive, resourcefulness and clear sense of purpose. She is a high energy person, and over the years has worked numerous jobs to support her education. She describes herself as passionate about learning, and eager to get into the weeds on many topics. These traits are illustrated, I think, by her decision to transfer to Georgetown which came when she was working at the Department of Justice in the summer of 2022, and arrived at the view that such a change would give her a broader range of possible areas of study. Starting there a couple of months later, I was also impressed with her finalist status this last year in the Leahy moot court competition for non-1L students.

Julia is obviously excited about her legal career, and past performance in many respects noted on her resume strongly suggests that she will make the most of it. At this point, from what I have seen, she seems uniquely suited to serve with distinction as a law clerk. I hope you will have an opportunity to meet with her.

Best regards,

Donald Ayer
Adjunct Professor

Donald Ayer - Donald.Ayer@law.georgetown.edu

JULIA CASH

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WRITING SAMPLE

This writing sample is an excerpt from an appellate brief I wrote for my first-year writing class, “Lawyering II.” I have since updated this sample to better reflect my current writing abilities. This excerpt is my own work.

This case involved an alleged unconstitutional search. Federal agents found a key fob that they believed belonged to Davina Day, a suspect in an ongoing investigation. They followed Ms. Day to her apartment complex but lost her before discovering exactly where she lived. Not knowing which unit belonged to Ms. Day, the agents proceeded to walk building-to-building, door-to-door, waving the key fob in front of each door’s electronic lock. When they reached Ms. Day’s door, they waved the fob in front of the lock and saw a green light. Using this information, the agents obtained a search warrant for Ms. Day’s apartment. Ms. Day moved to suppress the evidence obtained through the search warrant, arguing that the agents’ actions violated the Fourth Amendment. The United States District Court for the District of Columbia denied the motion.

I was assigned to represent Ms. Day in her appeal to the United States Court of Appeals for the D.C. Circuit. In this brief, I argue that the agents conducted an unconstitutional search in the curtilage of Ms. Day’s home. For brevity, this excerpt contains only the argument section of my brief.

ARGUMENT

I. The agents violated the Fourth Amendment because they searched the curtilage of Ms. Day’s home without license.

The Fourth Amendment to the U.S. Constitution guarantees people freedom from unreasonable searches. U.S. CONST. amend. IV. The Fourth Amendment’s protections extend beyond the interior of the home to the area “immediately surrounding and associated with th[e] home.” *Florida v. Jardines*, 569 U.S. 1, 6 (2013). This surrounding area is called curtilage and is treated as “part of the home itself for Fourth Amendment purposes.” *Id.* (citing *Oliver v. United States*, 466 U.S. 170, 180 (1984)). Thus, an unlawful search occurs when the government obtains information via unlicensed physical intrusion into an individual’s curtilage. *United States v. Jones*, 565 U.S. 400, 406-407 (2012). Here, federal agents violated Ms. Day’s Fourth Amendment rights because they conducted a search in Ms. Day’s curtilage without license.

A. The area outside of Ms. Day’s door is curtilage because it is immediately surrounding and associated with her home.

Curtilage includes areas “immediately surrounding and associated with the home.” *See Jardines*, 569 U.S. at 7. To determine whether an area is curtilage, courts ask whether it is “easily understood from our daily experience” that the “the activity of home life extends” to the area in question. *Id.* For example, the Supreme Court has reasoned that curtilage includes areas such as a “porch,” “side garden,” and the area “just outside a front window.” *Id.* at 6. Thus, the Fourth Amendment forbids law enforcement from “trawl[ing] for evidence” in any of these areas without license. *Id.*

Here, the threshold to Ms. Day’s apartment is curtilage because it is an area immediately surrounding and associated with her home. Indeed, the agents stood on Ms. Day’s doormat and waved a key fob in front of her lock—the searched area was no doubt “immediately

surrounding” her apartment. All told, the police cannot “trawl for evidence” any more at the threshold of an apartment than at the porch immediately outside a homeowner’s door. *Id.*; see also *United States v. Whitaker*, 820 F.3d 848, 854 (7th Cir. 2016) (noting that it would be arbitrary to differentiate between the front porch of a single-family home and the closed hallway of an apartment building).

Applying the same logic, the Supreme Court of Illinois held that the area outside a defendant’s apartment door was curtilage. *People v. Bonilla*, 120 N.E.3d 930, 937-38 (Ill. 2018). In *Bonilla*, police entered a three-story, twelve-unit apartment building through an unlocked door and conducted a canine search outside a defendant’s apartment door. 120 N.E.3d at 932. Applying *Jardines*, the court held that the searched area was curtilage, reasoning that the area outside a defendant’s apartment door is effectively indistinguishable from a homeowner’s porch. *Id.* at 937. Indeed, “[j]ust like the front porch[], . . . the threshold of [an] apartment door constitutes an area adjacent to the home to which the activity of home life extends.” *Id.* at 938 (internal quotation omitted). The Court further reasoned that the Fourth Amendment “does not differentiate as to the type of home involved[,]” and thus it would be “unfair” to hold that police cannot search a homeowner’s doorstep but “can go into [a tenant’s] hallway and [search her] door” simply because she “happen[s] to live in an apartment.” *Id.* at 937 (internal quotations omitted).

The same reasoning applies in this case. Here, as in *Bonilla*, the Defendant lives in a three-story, twelve-unit apartment building. J.A. 9-10. Here, as in *Bonilla*, the police entered the area immediately outside the Defendant’s door. J.A. 23. And here, as in *Bonilla*, the police searched for evidence at the threshold of the Defendant’s apartment. J.A. 23. Thus, just like in *Bonilla*, the area outside Ms. Day’s door is curtilage. See also *People v. Burns*, 50 N.E.3d 610,

620 (Ill. 2016) (applying *Jardines* to hold that the landing outside a tenant’s apartment door was curtilage).

The lower court here charted a different course, relying on other courts that applied *United States v. Dunn*, 480 U.S. 294, 301 (1987), to hold that the areas outside of an apartment unit door are not curtilage. J.A. 36 (citing *State v. Edstrom*, 916 N.W.2d 512, 521 (Minn. 2018); *United States v. Sweeney*, 821 F.3d 893, 902 (7th Cir. 2016)). In *Dunn*, the Supreme Court determined the scope of a ranch owner’s curtilage by considering four factors: (1) the searched area’s “proximity” to the home, (2) whether the area was “within an enclosure surrounding the home,” (3) how the area was used, and (4) the steps taken by the rancher to prevent the area from being seen by others. 480 U.S. at 301. Applying these factors, some courts have held that a tenant’s curtilage does not extend to the hallway outside her door because the hallway is neither enclosed within the apartment unit nor shielded from the view of others. See *Edstrom*, 916 N.W.2d at 518-19; *United States v. Trice*, 966 F.3d 506, 515 (6th Cir. 2020).

But the *Dunn* factors are a poor fit for a case involving a search within a multi-unit dwelling. In *Dunn*, the question before the Court was whether a barn, located fifty yards from a fence that surrounded a ranch house, was considered the curtilage of that house. 480 U.S. at 299. In that context, it made sense for the Court to consider whether the defendant’s barn was enclosed by the fence that surrounded his home, and whether the defendant had taken affirmative steps to shield his barn from others standing in neighboring fields. *Dunn*, 480 U.S. at 302-03.

It makes little sense to apply the same factors to a multi-unit dwelling. Indeed, renters are generally prohibited from doing the things that *Dunn* seemingly requires a defendant to do. For instance, a tenant in a multi-unit dwelling is usually contractually barred from taking steps to shield the area in front of her door from the view of her landlord, other tenants, or maintenance

workers—e.g., she cannot erect a wall or curtains in her hallway. Nor can a tenant “fence [in]” the area in front of her door such that it is “within an enclosure surrounding” her apartment. *Dunn*, 480 U.S. at 302. Doing any of these things would almost certainly violate a tenant’s lease, would likely violate housing codes, and could open the tenant to the threat of eviction. The Fourth Amendment cannot possibly require an apartment-dwelling defendant to violate the law and risk eviction to earn the same constitutional protections easily obtained by the average homeowner. *See, eg., Bonilla*, 120 N.E.3d at 937 (the Fourth Amendment “does not differentiate as to the type of home involved”) (internal quotation omitted).

Despite this reasoning, the lower court relied on opinions that mechanically applied the *Dunn* factors to cases where the factors simply did not belong, leading to illogical results. For example, in *Edstrom*, the Supreme Court of Minnesota found that the area immediately outside of a tenant’s door was not curtilage because the area was “not fenced or otherwise enclosed with the home” and the tenant did not “[make] any attempt to obscure the area” from his neighbors’ view. 916 N.W.2d at 518-19. But the tenant in that case lived on the third floor of a multi-unit apartment building—he was almost certainly legally barred from doing the very things the court seemingly required him to do to gain the Fourth Amendment’s protection. *See also United States v. Hopkins*, 824 F.3d 726, 732 (8th Cir. 2016) (noting that under the *Dunn* factors, even the front porch in *Jardines* would not have qualified as curtilage).

Nothing in the Supreme Court’s case law requires this counterintuitive approach. The Court has never held that *Dunn* must be applied to determine curtilage in *every* case, regardless of how much the facts differ from the *Dunn* rancher and his barn. Quite the opposite: when faced with cases in which the facts differed from *Dunn*, the Court eschewed consideration of the *Dunn* factors altogether. *See Jardines*, 569 U.S. at 6. For example, in *Jardines*, the Court did

not even mention the *Dunn* factors; instead, it determined the parameters of curtilage simply by asking whether the defendant’s porch was “immediately surrounding” and “associated” with the home. *Id.*; see also *Collins v. Virginia*, 138 S. Ct. 1663, 1667 (2018) (applying *Jardines*—not *Dunn*—to determine if a section of a driveway was curtilage).

B. Even if this Court applies *Dunn*, the area outside of Ms. Day’s door is still curtilage.

Even if this Court applies the *Dunn* factors, the area outside of Ms. Day’s door is still curtilage. The *Dunn* factors are used as a heuristic tool, and no one factor is meant to be dispositive. 480 U.S. at 301. Rather, the factors are to be applied only as needed to answer the central inquiry: “whether the area in question is so intimately tied to the home itself that it should be placed under the home’s ‘umbrella’ of Fourth Amendment protection.” *Id.* Indeed, the *Dunn* Court warned against mechanically applying the factors to reach a “correct” answer in every scenario. *Id.* Thus, an area adjacent to a home can still be curtilage if it fails to satisfy some of the *Dunn* factors. *Id.* Under *Dunn*, the searched area here is curtilage because (1) it is exceedingly close to Ms. Day’s apartment, and (2) Ms. Day’s apartment is uniquely isolated from the public, such that its use is intimately tied to her home. *Id.* Thus, while *Dunn* is generally a poor fit for cases involving multi-unit dwellings, this case presents an instance in which the area outside an apartment door still qualifies as curtilage—even under the *Dunn* factors.

Here, the first *Dunn* factor—proximity—is satisfied. The agents got as close as they could to Ms. Day’s door without going inside. They stood on her doormat and waved her key fob close enough to the sensor that it unlocked her door. J.A. 11. See, e.g., *Edstrom*, 916 N.W.2d at 518 (reasoning that the proximity factor was satisfied because the hallway adjacent to the defendant’s apartment was “immediately adjacent” to the home).

Next, the third *Dunn* factor—nature of use—is also satisfied because the area outside of Ms. Day’s door is generally used only by Ms. Day. Nature of use is the “most telling” factor in the *Dunn* inquiry. See *United States v. Jackson*, 728 F.3d 367, 374 (4th Cir. 2013); *Trice*, 966 F.3d at 515. Indeed, multiple courts have held that an area is curtilage when it satisfies this factor, even when other factors are not satisfied. See *United States v. Burston*, 806 F.3d 1123, 1127 (8th Cir. 2015); *Hopkins*, 824 F.3d at 732. In a multi-unit dwelling, this factor is satisfied when the use of the area is “generally limited” to the tenant. See *Burns*, 50 N.E.3d at 621. For example, in *Burns*, the Supreme Court of Illinois held that the area in front of an apartment door was curtilage in part because that area was generally used by only the defendant and his guests. *Id.* By comparison, other courts have held that an area outside of a defendant’s door is *not* curtilage where the area was “used by other tenants as passageway to the basement laundry unit,” *Trice*, 966 F.3d at 515, or where “other tenants use[d] [the area] jointly.” *Edstrom*, 916 N.W.2d at 518.

Here, Ms. Day’s apartment was located at a dead end behind the staircase; thus, no other tenant needed to walk by her door to reach another apartment, the laundry room, the mailbox area, or any other communal space in the building. J.A. 21. Indeed, there is no evidence in the record here that anyone besides Ms. Day and her guests ever regularly walks into the alcove where her door sits.

To be sure, the area where the agents stood is not within an enclosure surrounding Ms. Day’s apartment, and Ms. Day took no affirmative steps to shield the area from others. But failing to satisfy any given *Dunn* factor is not dispositive. See *Dunn*, 480 U.S. at 301. For example, the Eighth Circuit held that the area in front of a door to a townhome apartment was curtilage even though it was neither enclosed nor shielded from view because the area was close

to the apartment unit and the area was regularly used by the residents living in that unit as they entered and exited. *Hopkins*, 824 F.3d at 732. Here, like in *Hopkins*, the searched area was the space immediately outside Ms. Day’s door and Ms. Day walked through that area daily. J.A. 11. Thus, even if this Court applies *Dunn*, the area outside Ms. Day’s door is curtilage.

C. The agents had neither an express nor implied license to search the area outside Ms. Day’s door.

If an area is curtilage, the government violates the Fourth Amendment by searching that area without license. A resident can give the government an explicit license (i.e., by consent to a search). *Jardines*, 569 U.S. at 7-8. Meanwhile, an implicit license is dictated by societal norms—for example, a police officer generally has an implicit license to “approach a home and knock, precisely because that is no more than any private citizen might do.” *Id.* (internal quotation omitted). But police do not have an implicit license to “explor[e] the front path with a metal detector, or march[] [a] bloodhound into the garden.” *Id.* at 9. Here, the police had neither an explicit nor implicit license. Ms. Day did not give the agents permission to search the area outside her door. J.A. 17. And while the agents may have had an implicit license to “approach [her apartment door] and knock,” they certainly did not have license to attempt to unlock that door using a key fob that they found in a pet store parking lot. *See Jardines*, 569 U.S. at 9.

II. The agents’ search violated the Fourth Amendment because Ms. Day had a reasonable expectation of privacy in the area immediately outside her door.

Even if this Court believes that the searched area is not curtilage, the agents’ conduct still violated the Fourth Amendment because Ms. Day had a reasonable expectation of privacy in the area immediately outside her door. Indeed, even when the government searches an area that is not curtilage, the search is still unconstitutional when the defendant has a reasonable expectation of privacy in the searched area. *Jones*, 565 U.S. at 409. A person has a reasonable expectation

of privacy in a searched area if (1) she has a subjective expectation of privacy in that area, and (2) “society is prepared to recognize that expectation as objectively reasonable.” *California v. Ciraolo*, 476 U.S. 207, 211 (1986) (defining the two-part “reasonable expectation of privacy” test based on *Katz v. United States*, 389 U.S. 347, 360 (1967) (Harlan, J., concurring)). Here, all agree Ms. Day had a subjective expectation of privacy in the area outside her door. Thus, the dispositive question is whether that expectation was objectively reasonable.

To determine whether a tenant has an objectively reasonable expectation of privacy, courts look to what society would “recognize as reasonable” considering the circumstances. *Katz*, 389 U.S. at 360 (Harlan, J., concurring). A person has heightened privacy interests “in [her] home *and the surrounding area*.” *Jardines*, 569 U.S. at 7 (quoting *Ciraolo*, 476 U.S. at 213) (emphasis added).

Here, Ms. Day had an objectively reasonable expectation that members of the public would not walk up to her door and try to unlock it. To start, Ms. Day’s apartment is housed within a typically locked apartment complex, located on the top floor, at the end of a hallway behind a staircase. J.A. 9-10, 21. There is no unit in the building further from the public than Ms. Day’s apartment. And even if Ms. Day could expect strangers to walk outside her apartment, she certainly could not expect those strangers to walk right up to her door and attempt to unlock it. Indeed, society would no doubt “recognize as reasonable” a tenant’s expectation that no stranger would attempt to unlock her door using a key found in a parking lot across town. *Katz*, 389 U.S. at 360 (Harlan, J., concurring).

In a similar case, the Nebraska Supreme Court held that a tenant had an objectively reasonable expectation of privacy in the area outside her door. *State v. Ortiz*, 600 N.W.2d 805, 819 (Neb. 1999). In *Ortiz*, police brought a drug dog into the hallway outside a tenant’s door to

search for evidence and directed the dog to sniff at the threshold of the tenant’s door. *Id.* at 812. The *Ortiz* Court held that this search violated the Fourth Amendment because “a hallway shared by tenants in a private multi-unit dwelling is not a public space . . . [but rather] a private space intended for the use of the occupants and their guests.” *Id.* at 819 (internal quotation omitted). Thus, the tenant had “a legitimate expectation of some measure of privacy” in that space, and the police violated that expectation by walking right up to the tenant’s door to search for evidence. *Id.* The same logic applies here: Ms. Day could reasonably expect “some measure of privacy” in the hallway outside her door—and the police violated that expectation by searching for evidence at the threshold of her apartment. *Id.*; *See also United States v. Carriger*, 541 F.2d 545, 552 (6th Cir. 1976) (holding that tenants have a reasonable expectation of privacy in the common areas of a locked building); *Jardines*, 569 U.S. at 13 (Kagan, J., concurring) (explaining that the “practical value” of Fourth Amendment privacy protections is to prevent police officers from “standing in an adjacent space” and “trawl[ing] for evidence with impunity”).

To be sure, the court below held that Ms. Day cannot expect privacy in the area outside her door because she lacks a “right to exclude third parties” from that area. J.A. 37. But under *Jardines*, a defendant has a reasonable expectation of privacy not just in her home, but in the “area surrounding” her home. 569 U.S. at 6. The lower court’s purported legal-right-to-exclude test arbitrarily denies Ms. Day this constitutional protection simply because she lives in a multi-unit dwelling. Indeed, no tenant can legally exclude *all* people from the hallway outside her door. So, while a person who lives in a single-family home has constitutional protections in “surround[ing]” areas such as his “front porch,” “side garden,” and the area “outside [his] front window,” *id.*, under the lower court’s test, a person living in an apartment complex has no such privacy even a millimeter outside his doorstep. It makes little sense to assert that the Fourth

Amendment's protections wax and wane based on nothing more than the circumstances that decide homeownership. *See Whitaker*, 820 F.3d at 854.

What is more, under Supreme Court precedent, a total right to exclude has never been a prerequisite for a constitutional expectation of privacy. Rather, such an expectation turns on what society deems reasonable under the circumstances. *Katz*, 389 U.S. at 360 (Harlan, J., concurring). And societal norms dictate that a tenant generally can expect *some* privacy in the area right outside her door. Sure, a tenant cannot prevent others from merely walking through that space—doing so would likely violate her lease—but that does not mean that the rest of society is free to use the area in front of a tenant's door with impunity. For example, a tenant can reasonably expect that members of the public will not “set up chairs and have a party in the hallway right outside [her] door.” *Whitaker*, 820 F.3d at 853. Nor would it be societally acceptable for a stranger to walk up to a tenant's door and attempt to unlock it using a key found in a pet store parking lot. The agents here are no different: by walking up to Ms. Day's door, standing on her doormat, and attempting to unlock her door without any invitation—something that no stranger would reasonably be expected to do—the agents violated Ms. Day's objectively reasonable expectation of privacy.

The government may argue that adopting a bright-line rule asserting there is no reasonable expectation of privacy in the shared hallways of an apartment complex makes it easier for law enforcement to do their jobs. *See, e.g., United States v. Holland*, 755 F.2d 253, 255 (2d Cir. 1985) (reasoning that such a bright-line rule sets a boundary that is “readily apparent to an officer in the field”). But a bright-line rule establishing that a tenant in a typically locked multi-unit dwelling can expect privacy in her hallway is just as easy for law enforcement

to follow. And either way, the Fourth Amendment's privacy protections turn on society's reasonable expectations, not on easing law enforcement's path to arresting a defendant.

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Applicant Education

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 Date of BA/BS **May 2021**
 JD/LLB From **New York University School of Law**
<https://www.law.nyu.edu>
 Date of JD/LLB **May 22, 2024**
 Class Rank **School does not rank**
 Law Review/Journal **Yes**
 Journal(s) **New York University Law Review**
 Moot Court Experience **No**

Bar Admission**Prior Judicial Experience**

Judicial Internships/Externships **No**
 Post-graduate Judicial Law Clerk **No**

Specialized Work Experience

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This applicant has certified that all data entered in this profile and any application documents are true and correct.

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June 12, 2023

The Honorable Jamar K. Walker
U.S. District Court for the Eastern District of Virginia
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510

Dear Judge Walker:

I am a rising third-year student at New York University School of Law seeking a clerkship in your chambers for the 2024-25 term or any term thereafter.

Although I grew up in Alabama, my family has since relocated to Richmond, Virginia, and I am eager to return to this area after graduation. Additionally, I hope to pursue a career in civil rights litigation, and I am particularly interested in clerking for you because of your commitment to public service. Finally, clerking at the Eastern District of Virginia would allow me to work on a wide range of cases in a fast-paced environment, giving me the opportunity to learn from the strategies of practicing attorneys while witnessing how disputes are resolved based on both facts and law.

Attached please find my resume, transcript, and writing sample. The writing sample is a memorandum I wrote during my summer employment at the U.S. Department of Justice. My letters of recommendation are from Helen Hershkoff, Kenji Yoshino, and Gail Johnson. Professor Hershkoff taught my Civil Procedure class, and I worked with her to update the Federal Practice and Procedure supplementation last year. She can be reached at helen.hershkoff@nyu.edu or (212) 998-6285. Professor Yoshino was my Constitutional Law instructor, and I helped draft and revise portions of his article about transgender rights. He can be reached at kenji.yoshino@nyu.edu or (212) 998-6421. Supervisory Trial Counsel Gail Johnson oversaw my work last summer at the Department of Justice, and I consider her a close mentor. She can be reached at gail.k.johnson@usdoj.gov or (202) 616-4280.

If you need any additional information, please do not hesitate to contact me at the above email address or telephone number. Thank you for your consideration, and I look forward to hearing from you.

Respectfully,



Greta Chen

GRETA CHEN

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EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW, J.D. Candidate, May 2024

GPA: 3.73

Honors: *New York University Law Review*, Executive Editor

Robert McKay Scholar—*top 25% of class after four semesters*

Robert A. Katzmman Fellow—*stipend to conduct research for Katzmman Symposium*

Chesler Scholarship in Litigation—*for demonstrated talent in civil trial litigation*

Activities: Suspension Representation Project, Case Manager and Student Advocate

Asian-Pacific American Law Students Association, Co-Chair

DUKE UNIVERSITY, B.S. in Economics, May 2021

GPA: 3.86

Honors: University Scholars Finalist—*partial tuition scholarship based in part upon academic merit*

Activities: Debating Society, Secretary

Sanford School of Public Policy, Social Media Intern

EXPERIENCE

WILMER CUTLER PICKERING HALE AND DORR LLP, Washington, DC

Summer Associate, May 2023–July 2023

RACIAL EQUITY STRATEGIES CLINIC, NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, New York, NY

Legal Intern, January 2023–May 2023

Analyzed legal issues related to redistricting litigation, such as the scope of legislative privilege in voting rights contexts. Reviewed and summarized deposition transcripts to identify favorable and unfavorable testimony in voter suppression case. Prepared comprehensive report on history of discriminatory voting practices in the South.

PROFESSOR KENJI YOSHINO, NYU SCHOOL OF LAW, New York, NY

Research Assistant, October 2022–May 2023

Reviewed and revised forthcoming article about litigation strategies for transgender rights. Researched LGBTQ+ laws across different jurisdictions, comparing the United States to countries like Iran and Japan.

PROFESSOR HELEN HERSHKOFF, NYU SCHOOL OF LAW, New York, NY

Research Assistant, May 2022–October 2022

Researched litigation advantages of the United States as a plaintiff in federal court, focusing on False Claims Act litigation. Edited and cite-checked the most recent edition of the Federal Practice and Procedure supplementation.

U.S. DEPARTMENT OF JUSTICE, CIVIL DIVISION, FEDERAL TORT CLAIMS ACT SECTION, Washington, DC

Law Clerk, May 2022–July 2022

Drafted legal memoranda on topics including the applicability of absolute immunity in a malicious prosecution claim. Wrote motion to exclude expert witness testimony of pharmaceutical expert in multimillion-dollar healthcare fraud case. Analyzed admissibility of Office of Professional Responsibility Report findings.

BURR & FORMAN LLP, Birmingham, AL

Pre-Law Intern, June–July 2019, 2020, and 2021

Composed memoranda for corporate and litigation matters. Recommended diversity, equity, and inclusion initiatives to Executive Committee. Awarded 2nd Place in mock trial competition on search and seizure case.

LANGUAGES AND INTERESTS

Conversational in Mandarin; basic Spanish. Enjoy art and photography, playing tennis, and watching horror films.

Name: Greta Y Chen
 Print Date: 06/07/2023
 Student ID: N19144876
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 Page: 1 of 1

New York University
 Beginning of School of Law Record

Fall 2021

School of Law Juris Doctor Major: Law				
Lawyering (Year)		LAW-LW 10687	2.5	CR
Instructor:	David Simson			
Torts		LAW-LW 11275	4.0	A-
Instructor:	Mark A Geistfeld			
Procedure		LAW-LW 11650	5.0	A
Instructor:	Helen Hershkoff			
Contracts		LAW-LW 11672	4.0	A
Instructor:	Richard Rexford Wayne Brooks			
1L Reading Group		LAW-LW 12339	0.0	CR
Instructor:	Randy Hertz			
	Vincent Southerland			
		AHRS	EHRS	
Current		15.5	15.5	
Cumulative		15.5	15.5	

Spring 2022

School of Law Juris Doctor Major: Law				
Property		LAW-LW 10427	4.0	B+
Instructor:	Katrina M Wyman			
Lawyering (Year)		LAW-LW 10687	2.5	CR
Instructor:	David Simson			
Legislation and the Regulatory State		LAW-LW 10925	4.0	A-
Instructor:	Adam B Cox			
Criminal Law		LAW-LW 11147	4.0	A-
Instructor:	Ekow Nyansa Yankah			
1L Reading Group		LAW-LW 12339	0.0	CR
Instructor:	Randy Hertz			
	Vincent Southerland			
Financial Concepts for Lawyers		LAW-LW 12722	0.0	CR
		AHRS	EHRS	
Current		14.5	14.5	
Cumulative		30.0	30.0	

Fall 2022

School of Law Juris Doctor Major: Law				
Resisting Injustice Seminar		LAW-LW 10310	2.0	A
Instructor:	Carol Gilligan			
	David A J Richards			
Resisting Injustice Seminar-Wc		LAW-LW 10469	1.0	A
Instructor:	Carol Gilligan			
	David A J Richards			
Antitrust Law		LAW-LW 11164	4.0	B+
Instructor:	Daniel S Francis			
Professional Responsibility and the Regulation of Lawyers		LAW-LW 11479	2.0	A-
Instructor:	Barbara Gillers			
Constitutional Law		LAW-LW 11702	4.0	B+
Instructor:	Kenji Yoshino			
Research Assistant		LAW-LW 12589	1.0	CR
Instructor:	Kenji Yoshino			
		AHRS	EHRS	
Current		14.0	14.0	
Cumulative		44.0	44.0	

Spring 2023

School of Law Juris Doctor Major: Law				
Racial Justice Colloquium		LAW-LW 10540	2.0	A-
Instructor:	Deborah Archer			
	Vincent Southerland			
Advanced Trial Simulation		LAW-LW 11138	2.0	A-
Instructor:	David R Marriott			
	Evan R Chesler			
Evidence		LAW-LW 11607	4.0	A
Instructor:	Daniel J Capra			
Racial Equity Strategies Clinic		LAW-LW 12455	3.0	A
Instructor:	Raymond Audain			
Racial Equity Strategies Clinic Seminar		LAW-LW 12456	2.0	A
Instructor:	Raymond Audain			
Research Assistant		LAW-LW 12589	1.0	CR
Instructor:	Kenji Yoshino			
		AHRS	EHRS	
Current		14.0	14.0	
Cumulative		58.0	58.0	
McKay Scholar-top 25% of students in the class after four semesters				
Staff Editor - Law Review 2022-2023				

End of School of Law Record

TRANSCRIPT ADDENDUM FOR NYU SCHOOL OF LAW
JD CLASS OF 2023 AND LATER & LLM STUDENTS

I certify that this is a true and accurate representation of my NYU School of Law transcript.

Grading Guidelines

Grading guidelines for JD and LLM students were adopted by the faculty effective fall 2008. These guidelines represented the faculty's collective judgment that ordinarily the distribution of grades in any course will be within the limits suggested. An A + grade was also added.

Effective fall 2020, the first-year J.D. grading curve has been amended to remove the previous requirement of a mandatory percentage of B minus grades. B minus grades are now permitted in the J.D. first year at 0-8% but are no longer required. This change in the grading curve was proposed by the SBA and then endorsed by the Executive Committee and adopted by the faculty. Grades for JD and LLM students in upper-level courses continue to be governed by a discretionary curve in which B minus grades are permitted at 4-11% (target 7-8%).

First-Year JD (Mandatory)	All other JD and LLM (Non-Mandatory)
A+: 0-2% (target = 1%) (see note 1 below)	A+: 0-2% (target = 1%) (see note 1 below)
A: 7-13% (target = 10%)	A: 7-13% (target = 10%)
A-: 16-24% (target = 20%)	A-: 16-24% (target = 20%)
Maximum for A tier = 31%	Maximum for A tier = 31%
B+: 22-30% (target = 26%)	B+: 22-30% (target = 26%)
Maximum grades above B = 57%	Maximum grades above B = 57%
B: remainder	B: remainder
B-: 0-8%*	B-: 4-11% (target = 7-8%)
C/D/F: 0-5%	C/D/F: 0-5%

The guidelines for first-year JD courses are mandatory and binding on faculty members; again noting that a mandatory percentage of B minus grades are no longer required. In addition, the guidelines with respect to the A+ grade are mandatory in all courses. In all other cases, the guidelines are only advisory.

With the exception of the A+ rules, the guidelines do not apply at all to seminar courses, defined for this purpose to mean any course in which there are fewer than 28 students.

In classes in which credit/fail grades are permitted, these percentages should be calculated only using students taking the course for a letter grade. If there are fewer than 28 students taking the course for a letter grade, the guidelines do not apply.

Important Notes

1. The cap on the A+ grade is mandatory for all courses. However, at least one A+ can be awarded in any course. These rules apply even in courses, such as seminars, where fewer than 28 students are enrolled.
2. The percentages above are based on the number of individual grades given – not a raw percentage of the total number of students in the class.
3. Normal statistical rounding rules apply for all purposes, so that percentages will be rounded up if they are above .5, and down if they are .5 or below. This means that, for example, in a typical first-year class of 89 students, 2 A+ grades could be awarded.
4. As of fall 2020, there is no mandatory percentage of B minus grades for first-year classes.

NYU School of Law does not rank students and does not maintain records of cumulative averages for its students. For the specific purpose of awarding scholastic honors, however, unofficial cumulative averages are calculated by the Office of Records and Registration. The Office is specifically precluded by faculty rule from publishing averages and no record will appear upon any transcript issued. The Office of Records and Registration may not verify the results of a student's endeavor to define his or her own cumulative average or class rank to prospective employers.

Scholastic honors for JD candidates are as follows:

<i>Pomeroy Scholar:</i>	Top ten students in the class after two semesters
<i>Butler Scholar:</i>	Top ten students in the class after four semesters
<i>Florence Allen Scholar:</i>	Top 10% of the class after four semesters
<i>Robert McKay Scholar:</i>	Top 25% of the class after four semesters

Named scholar designations are not available to JD students who transferred to NYU School of Law in their second year, nor to LLM students.

Missing Grades

A transcript may be missing one or more grades for a variety of reasons, including: (1) the transcript was printed prior to a grade-submission deadline; (2) the student has made prior arrangements with the faculty member to submit work later than the end of the semester in which the course is given; and (3) late submission of a grade. Please note that an In Progress (IP) grade may denote the fact that the student is completing a long-term research project in conjunction with this class. NYU School of Law requires students to complete a Substantial Writing paper for the JD degree. Many students, under the supervision of their faculty member, spend more than one semester working on the paper. For students who have received permission to work on the paper beyond the semester in which the registration occurs, a grade of IP is noted to reflect that the paper is in progress. Employers desiring more information about a missing grade may contact the Office of Records & Registration (212-998-6040).

Class Profile

The admissions process is highly selective and seeks to enroll candidates of exceptional ability. The Committees on JD and Graduate Admissions make decisions after considering all the information in an application. There are no combination of grades and scores that assure admission or denial. For the JD Class entering in Fall 2021 (the most recent entering class), the 75th/25th percentiles for LSAT and GPA were 174/170 and 3.93/3.73.

Updated: 10/4/2021



U.S. Department of Justice

Civil Division, Torts Branch Federal Tort Claims Act Staff

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May 23, 2023

The Honorable Jamar K. Walker
United States District Court for the Eastern District of Virginia
Walter E. Hoffman United States Courthouse
603 Granby Street
Norfolk, VA 23510

Re: Letter of Recommendation for Greta Chen

Dear Your Honor:

It is my professional and personal pleasure to write this letter of recommendation on behalf of Greta Chen. One of the best parts about recruiting volunteer law clerks for the Federal Tort Claims Act (FTCA) Section at the U.S. Department of Justice (Department) is discovering talented future lawyers like Greta. She thrives in an intellectually-challenging environment and produces top-notch legal work while maintaining a pleasant and professional approach. Greta is a standout among not only the pandemic-era law clerk classes but among the over 200 law clerks that I have recruited over nearly 20 years here at the Department. She will thrive and grow working with you and your staff for reasons that will become clear in this letter.

Greta is a second-year law student at New York University and she worked full-time in our Summer 2022 Law Clerk Program. Her classmates included two students from Yale, two from the University of Virginia, and one from Stanford. The class was uber-talented and Greta held her own with them. Greta often worked more than the expected 40 hours per work as she was assigned, along with a Yale clerk, to a high-profile case scheduled for trial. My colleague, Larry Eiser, a seasoned trial lawyer loved working with both and gave them increasingly challenging assignments over the course of the summer. Greta worked on four assignments for Larry during her nine-week stint.

To give you a sense of why Greta became invaluable to Larry, here is an excerpt of a conversation between the two of them

Greta: Larry, Hope you had a good weekend and have sufficiently recovered from last week's deposition. I'm attaching a short memo re: application of the discretionary function exception to XXXXX, since he was the defendant I was most concerned about prosecutorial immunity not applying to (although I think the analysis could apply to all of our defendants).

The district court seems to have rejected the discretionary function defense based on the first prong of SCOTUS’s two-part test, finding that defendants do not have discretion to violate the Constitution. However, the Constitution does not specifically prohibit any of XXXXX actions, and plaintiffs should not be able to circumvent the defense by simply claiming a constitutional rights violation when there isn’t one

Larry: This is great stuff Greta! But help me out because my memory is turning to @#%& – did I ask for this?

Greta: Haha[. N]ot expressly but we talked about it during our conversation about the immunity argument (about what arguments might apply to XXXXX), and I had some time to look into it and found it interesting!

Larry: I thought that’s what happened but didn’t quite believe it. So you saw that the argument I asked you to research might not win, so you, on your own, researched and prepared a killer memo on the back-up argument? Impressive! You’re good to have on a team.

Since I have your attention, let me ask you a couple of follow-ups (emphasis in the original).

The conversation between Larry and Greta continued as he posed more questions to which she responded, based on her research and legal analysis. In the end, Larry wrote: “Gail: Greta gets my vote for FTCA Summer Law Clerk GOAT (Greatest of All Time). See below.”

Larry’s appreciation for Greta’s work and ability to anticipate legal questions continued for the entire summer. In addition to the memorandum analyzing application of discretionary exception function to defendant in malicious prosecution case, she worked on three more assignments for Larry and the trial team. Specifically, she -

1. Researched to what extent absolute prosecutorial immunity applied to conduct of six defendants in malicious prosecution case arising out of healthcare fraud investigation. Reviewed prosecution team’s timeline. Created chart and wrote memorandum applying case law to facts in light of Fourth Circuit opinion.
2. Reviewed Office of Professional Responsibility Report and attachments and consulted about implications of findings on plaintiff’s claims.
3. Drafted *Daubert* motion to exclude testimony of pharmaceutical expert related to healthcare fraud case.

As to each, Larry raved. He reveled in his engagement with Greta and her co-clerk and playfully referred to them as “Team Brain.” He even remarked, at their addition to the trial team: “Yaaaay! Our defense just got much stronger.” Larry often complimented Greta’s work. When she turned in her *Daubert* motion to exclude an expert’s testimony, he said: “Thanks[,] Greta. Another outstanding job!” Additionally, before taking the deposition of the subject of Greta’s motion, Larry emailed: “Hi[,] Greta, We probably don’t need to take the deposition of XXXXXX (I expect your *Daubert* motion will exclude him) but my team wanted to take it out of abundance of caution.”

In a team-wide email, Greta discussed her findings as to absolute prosecutorial immunity, and Larry stated: “Good stuff, Greta,” and adopted her research and finding, after challenging her analysis in additional questions. Greta, confident in her work, held steady. As the summer ended, Larry emailed that he was “[h]aving fun thanks to . . . curious young people examining and enjoying the gladiatorial spectacle.” Even after Greta returned to law school, he remained in touch and even shared the final version of a motion for summary where he highlighted: “[Y]ou’ll notice much of your good work in there.”

As is evident, Greta contributed substantially to United States’ defense of this multi-million case. I enjoyed reading the emails between Larry, Greta, and the trial team. Increasingly, Larry depended on Greta’s work and even included her in a contentious virtual deposition. Her assignments grew more complicated as she plumbed the depths of the presented issues and Larry appreciated her thoroughness and willingness to think outside of the box and construct novel approaches.

I would be remiss if I did not mention Greta’s exceptional interpersonal skills. From the submission of her application, she was very professional, pleasant, considerate, and mannerly. Our interview lasted nearly two hours and we got along famously. Although our program is hybrid, Greta took advantage of coming into the office on her designated days and sometimes extra ones. Larry preferred meeting her and her co-clerk in person and he enjoyed their conversations. He even attended a lunch to establish a rapport with them and another law clerk. Greta “was all in” during her summer with us and she was a favorite among the entire class. When I asked for a document with all clerk birthdays, Greta created a poster featuring each clerk’s picture, birthday, and even a graphic of each astrological sign to hang in the law clerk room to make sure that I would not forget them. I did not.

Greta has no sense of entitlement but instead is grateful for every opportunity big or small. Unlike many of her peers, she knows how to write and send a handwritten note of thanks, and occasional holiday card. While in town visiting during Christmas 2022, she made sure that we would meet during the season. It was a very sweet gesture which I appreciated greatly. She continues to remain in touch and I enjoy hearing about her school and clinical work during the school year. Of note, she and her classmates have an ongoing chat where they exchange texts throughout the year. This kind of connectedness is rare and Greta relishes her relationships with each of her classmates.

Your Honor, I am a big fan of Greta. Having clerked for three years for a federal judge here in Washington, D.C., I understand the inner workings of chambers. Greta would become an invaluable, hard-working member of your staff. Her natural curiosity would compel her to take on each case or
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